

Exhibit 45

SCHOOL DISTRICT/LOCAL GOVERNMENT ENTITY PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO EXCLUDE TESTIMONY OF SCHOOL DISTRICT EXPERTS

Case No.: 4:22-md-03047-YGR

MDL No. 3047

In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation

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Page 1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 - - - - -

4 IN RE: SOCIAL MEDIA CASE NO.
5 ADOLESCENT ADDICTION/PERSONAL 4:22-md-03047-YGR
6 INJURY PRODUCTS LIABILITY MDL No. 3047
7 LITIGATION

8
9 THIS DOCUMENT RELATES TO
10 ALL ACTIONS

11 - - - - -

12 Friday, August 15, 2025

13 CONFIDENTIAL - ATTORNEYS' EYES ONLY

14 PURSUANT TO PROTECTIVE ORDER

15
16 Videotaped deposition of BRYCE WARD, PhD,
17 held at the offices of Kessler Topaz Meltzer &
18 Check, LLP, 280 King of Prussia Road, Radnor,
19 Pennsylvania, commencing at 9:06 a.m. Eastern, on
20 the above date, before Robin L. Clark, Professional
21 Reporter and Notary Public in and for the
22 Commonwealth of Pennsylvania.

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I N D E X

WITNESS	PAGE
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BY MR. SANDOVAL-BUSHUR:	10

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Exhibit 11 Affidavit of Lisa Kathryn 387
Allison

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DEPOSITION SUPPORT INDEX

- - - - -

Direction to Witness Not to Answer

Page Line

NONE

Request for Production of Documents

Page Line

NONE

Question Marked

Page Line

NONE

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1 THE VIDEOGRAPHER: We are now
2 on the record. My name is William
3 Chan. I am a videographer for
4 Golkow, a Veritext division.
5 Today's date is Friday, August 15,
6 2025. The time is 9:06 a.m.
7 Eastern. This video deposition is
8 being held at the offices of
9 Kessler Topaz Meltzer and Check,
10 280 King of Prussia Road, Radnor,
11 Pennsylvania, in re: Social Media
12 Adolescent Addiction, Personal
13 Injury Products Liability
14 Litigation for the United States
15 District Court, Northern District
16 of California. The deponent is
17 Bryce Ward, PhD.

18 All counsel will be noted on
19 the stenographic record. The
20 court reporter is Robin Clark who
21 will now swear in the witness.

22 - - - - -

23 BRYCE WARD, PhD, having been
24 duly sworn, was examined and
25 testified as follows:

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1 - - - - -

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Good morning, Dr. Ward.

4 A. Good morning.

5 Q. My name is Joseph
6 Sandoval-Bushur. I represent YouTube and
7 Google in this case and I'll be asking
8 questions today on behalf of the
9 Defendants. You have been deposed a number
10 of times before, correct?

11 A. That is correct.

12 Q. So I expect that you know the
13 drill and the rules for the day, but just
14 as a reminder, please wait until I finish
15 asking a question to begin answering your
16 question and if you need a break at any
17 time, please just let me know.

18 Do you understand?

19 A. I agree, yes, I understand,
20 sorry.

21 Q. Okay. I am going to hand you
22 a binder and this binder contains documents
23 marked Exhibits 1A through 1F. Exhibit 1A
24 is a copy of your amended expert report for
25 the Breathitt case, right?

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1 A. Yes.

2 - - - - -

3 (Amended Expert Report for
4 Breathitt case marked Ward
5 Exhibit 1A for identification.)

6 - - - - -

7 BY MR. SANDOVAL-BUSHUR:

8 Q. And this is your operative
9 report in the Breathitt case, correct?

10 A. That is correct.

11 Q. Exhibit 2B is the amended
12 expert report -- your amended expert report
13 for the Charleston case?

14 MR. GRADEN: I'm sorry, is it
15 1B?

16 MR. SANDOVAL-BUSHUR: 1B, yes.

17 - - - - -

18 (Amended Expert Report for
19 Charleston case marked Ward
20 Exhibit 1B for identification.)

21 - - - - -

--

22 BY MR. SANDOVAL-BUSHUR:

23 Q. Sorry, I will ask that again,
24 thank you. Exhibit 1B is your expert
25 report for the Charleston case, correct?

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1 A. It is, although, actually,
2 I'm noticing, when we submitted these, we
3 forgot to attach the Exhibit B, which is
4 the list of materials considered. It's the
5 same as the original report, so I brought
6 copies of those here with me today.

7 Q. Okay.

8 A. Do I hand them to you? Do I
9 keep them here?

10 Q. Okay. Yeah, I will take
11 those and we'll deal with them in a second
12 once we get through.

13 A. Okay. Yeah, yes, so B is
14 Charleston, that is correct.

15 Q. Okay. Exhibit 1C is your
16 amended report for the DeKalb case,
17 correct?

18 A. Yup.

19 - - - - -

20 (Amended Expert Report for
21 DeKalb case marked Ward Exhibit
22 1C for identification.)

23 - - - - -

24 BY MR. SANDOVAL-BUSHUR:

25 Q. And that is the operative

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1 report for the DeKalb case, correct?

2 A. Yes.

3 Q. Exhibit 1D is your amended
4 expert report for the Harford case,
5 correct?

6 A. Yup.

7 - - - - -

8 (Amended Expert Report for
9 Harford case marked Ward Exhibit
10 1D for identification.)

11 - - - - -

12 BY MR. SANDOVAL-BUSHUR:

13 Q. And that is your operative
14 report for the Harford case?

15 A. Yup.

16 Q. Exhibit 1E is your amended
17 report for the Irvington case, right?

18 A. Yup.

19 - - - - -

20 (Amended Expert Report for
21 Irvington case marked Ward
22 Exhibit 1E for identification.)

23 - - - - -

24 BY MR. SANDOVAL-BUSHUR:

25 Q. And that's your operative

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1 report for the Irvington case, correct?

2 A. That is correct.

3 Q. And Exhibit 1F is your expert
4 report for the Tucson case, correct?

5 A. That is correct.

6 - - - - -

7 (Amended Expert Report for
8 Tucson case marked Ward Exhibit
9 1F for identification.)

10 - - - - -

11 BY MR. SANDOVAL-BUSHUR:

12 Q. And that is the operative
13 report for the Tucson case?

14 A. That is the operative report.

15 Q. All right. And I'm going to
16 go ahead and give you a binder marked "tab
17 2" binder and that contains exhibits that
18 have been marked Exhibits 2A through 2F.
19 Exhibit 2A is your reply report for the
20 Breathitt case, correct?

21 A. Correct.

22 - - - - -

23 (Reply Report for Breathitt
24 case marked Ward Exhibit 2A for
25 identification.)

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1 - - - - -

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Exhibit 2B is your reply
4 report for the Charleston case, correct?

5 A. Correct.

6 - - - - -

7 (Reply Report for Charleston
8 case marked Ward Exhibit 2B for
9 identification.)

10 - - - - -

11 BY MR. SANDOVAL-BUSHUR:

12 Q. Exhibit 2C is your reply
13 report for the DeKalb case, correct?

14 A. Correct.

15 - - - - -

16 (Reply Report for DeKalb
17 case marked Ward Exhibit 2C for
18 identification.)

19 - - - - -

20 BY MR. SANDOVAL-BUSHUR:

21 Q. Exhibit 2D is your reply
22 report for the Harford case?

23 A. Correct.

24 - - - - -

25 (Reply Report for Harford

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1 case marked Ward Exhibit 2D for
2 identification.)

3 - - - - -

4 BY MR. SANDOVAL-BUSHUR:

5 Q. And Exhibit 2E is your reply
6 report for the Irvington case?

7 A. Correct.

8 - - - - -

9 (Reply Report for Irvington
10 case marked Ward Exhibit 2E for
11 identification.)

12 - - - - -

13 BY MR. SANDOVAL-BUSHUR:

14 Q. Exhibit 2F is your reply
15 report for the Tucson case, correct?

16 A. Correct.

17 - - - - -

18 (Reply Report for Tucson
19 case marked Ward Exhibit 2F for
20 identification.)

21 - - - - -

22 BY MR. SANDOVAL-BUSHUR:

23 Q. And so Exhibits 1A through 1F
24 and Exhibits 2A through 2F are the complete
25 set of reports that are your operative

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1 reports in this case, correct?

2 A. That is correct.

3 Q. And if I refer to the
4 bellwether cases, will you understand that
5 I am referring to the Breathitt,
6 Charleston, DeKalb, Irvington, and Tucson
7 cases?

8 A. Correct.

9 Q. Your expert report
10 Exhibits 1A through 1F and 2A through 2F
11 contain a complete statement of all the
12 opinions that you may express in the
13 bellwether cases and the basis and reasons
14 for them, correct?

15 A. Correct.

16 Q. Is there anything in your
17 expert reports, Exhibits 1A through to 1F
18 and 2A to 2F that you believe should be
19 corrected?

20 A. I did notice a typo in the
21 Breathitt case report, 1A.

22 Q. Can you please identify the
23 paragraph in which --

24 A. Yes, I'll do that.

25 Q. -- the typo in the Breathitt

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1 report, Exhibit 1A, is located?

2 A. So paragraph 17, I think
3 that's where it's referring to, so
4 footnotes, the footnote 3, wherever that
5 is, yes, okay, I relied on data provided to
6 me by Breathitt, so all those XLSX files
7 that are footnotes three, four, five, six,
8 those, should all be listed under footnote
9 three. And then the variable names for --
10 that are cited for footnotes four, five,
11 and six, should be listed for those, so
12 it's like job desk and stuff like that.

13 Q. So footnotes four, five, and
14 six contain the correct citations?

15 A. They're the citations that
16 should have been under three, right, so
17 three -- because they're separate year
18 files and I somehow got them into the
19 different things as opposed to the right
20 line and then that supplanted the variable
21 names that were supposed to be listed in
22 four, five, and six.

23 Q. Sorry, just to make sure I
24 understand, so what citations should appear
25 in footnote four?

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1 A. That should say, like, job
2 desk, it's like a variable name.

3 Q. Okay. Uh-huh. Okay. And
4 what should the footnote say for footnote
5 five?

6 A. I think it's site.

7 Q. How do you spell that?

8 A. S-I-T-E.

9 Q. Okay. And what should the
10 footnote be for footnote six?

11 A. Off the top of my head, I
12 think it's salary or gross salary or
13 something along those lines, you know, some
14 demarcation of wages.

15 Q. You issued amended reports
16 for four districts, Breathitt, Charleston,
17 DeKalb, and Harford on Friday, August 8,
18 correct?

19 A. That is correct.

20 Q. What prompted you to issue
21 the amended reports for Breathitt,
22 Charleston, DeKalb and Harford?

23 A. As I was reviewing for my
24 deposition, as I was going back through all
25 of my calculations, I noticed some

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1 calculation errors.

2 Q. Did anything about your
3 methodology for estimating damages change
4 between your original report and your
5 amended report --

6 A. No change in methodology.

7 Q. Did you change any of the
8 inputs you used between your original
9 report and your amended report for any
10 district?

11 A. No.

12 Q. Okay. I am going to give you
13 a binder titled, "tab three" and this
14 contains Exhibits 3A through 3E.
15 Exhibit 3E is a copy of your original
16 expert report in the Breathitt case,
17 correct?

18 A. 3E?

19 Q. Sorry, I misstated.
20 Exhibit 3A is a copy of your original
21 report in the Breathitt case, correct?

22 A. Correct.

23 - - - - -

24 (Breathitt Original Expert
25 Report marked Ward Exhibit 3A for

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1 identification.)

2 - - - - -

3 BY MR. SANDOVAL-BUSHUR:

4 Q. Exhibit 3B is a copy of your
5 original report in the Charleston case,
6 correct?

7 A. Correct.

8 - - - - -

9 (Charleston Original Expert
10 Report marked Ward Exhibit 3B for
11 identification.)

12 - - - - -

13 BY MR. SANDOVAL-BUSHUR:

14 Q. Exhibit 3C is a copy of your
15 original report in the DeKalb case,
16 correct?

17 A. Correct.

18 - - - - -

19 (DeKalb Original Expert
20 Report marked Ward Exhibit 3C for
21 identification.)

22 - - - - -

23 BY MR. SANDOVAL-BUSHUR:

24 Q. Exhibit 3D is a copy of your
25 original report in the Harford case?

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1 A. Correct.

2 - - - - -

3 (Harford Original Expert
4 Report marked Ward Exhibit 3D for
5 identification.)

6 - - - - -

7 BY MR. SANDOVAL-BUSHUR:

8 Q. And Exhibit 3E is a copy of
9 your original case in the -- your original
10 report in the Irvington case, correct?

11 A. Correct.

12 - - - - -

13 (Irvington Original Expert
14 Report marked Ward Exhibit 3E for
15 identification.)

16 - - - - -

17 BY MR. SANDOVAL-BUSHUR:

18 Q. None of the reports in
19 Exhibits 3A through 3E are currently your
20 operative reports for any of these
21 districts, correct?

22 A. That is correct.

23 Q. For Breathitt, in your
24 amended report, Exhibit 1A, you are now
25 estimating damages that are approximately

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1 30 to 40 percent higher than you estimated
2 in your original Breathitt report, correct?

3 A. I don't know the exact
4 calculation off the top of my head, but
5 it's higher.

6 Q. Why are you now estimating
7 damages for Breathitt that are higher than
8 what you estimated in your original report?

9 A. So the change has to do with
10 this 2014 to 20 -- or I guess 2015 to 2020
11 period, where in the original calculation,
12 I had intended to sum two numbers and I had
13 averaged them. And that's what's driving
14 the increase for the most part. There's
15 also a slight change in the benefits
16 multiplier, I applied an incorrect benefits
17 multiplier to that particular portion to
18 the calculation. It's different than the
19 one I applied above in Table 5, the earlier
20 part -- the 2021 to 2024 part of the
21 calculation.

22 Q. Why did you change the
23 benefits multiplier that you used in the
24 Breathitt case --

25 A. I didn't change -- sorry.

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1 Q. Sorry -- between your
2 original report your amended report?

3 A. I was inconsistent between
4 two tables in the report, right? So I
5 didn't change -- I just changed it so that
6 the one in Table 6, the second part of the
7 table or the second table that has summary
8 damages matched the one in Table 5.,
9 because that was the one that I intended to
10 use.

11 Q. So in your original Breathitt
12 report, you used an incorrect benefit
13 multiplier for some of your damages
14 estimates?

15 A. For part of the calculation,
16 correct.

17 Q. And are you now using the
18 correct benefit multiplier for all of your
19 calculations in Breathitt?

20 A. Yes.

21 Q. When did you discover that
22 you had made an error in your Breathitt
23 damages calculations?

24 A. Last Wednesday.

25 Q. Did you yourself discover

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1 that you had made an error in your
2 Breathitt damages calculations or did
3 someone else bring it to your attention?

4 A. No, I found it.

5 Q. For DeKalb, you are now
6 estimating damages that are approximately
7 20 to 40 percent higher than you estimated
8 in your original report; is that correct?

9 A. I don't remember, I don't
10 know the math off the top of my head, but
11 I'll trust that you did the math.

12 Q. You are aware that for
13 DeKalb, you are now estimating damages that
14 are higher than you estimated in your
15 original report, correct?

16 A. I believe that's correct.

17 Q. Why are you now estimating
18 damages for DeKalb that are higher than
19 what you estimated in your original report?

20 A. So I had intended to -- you
21 know, I missed some cells in a spreadsheet,
22 so instead of summing 2018 for middle
23 schoolers and 2018 for high schoolers, I
24 had somehow done 2018 and 2015 and then
25 carried that down. So some of the years

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1 were, you know, lower years and so,
2 essentially, they're older years, and so
3 for part of the calculation, and so when
4 you correct it, you get whatever the
5 correct answer is.

6 Q. When did you discover that
7 you had made an error in your DeKalb
8 damages calculations?

9 A. Last Thursday.

10 Q. And what prompted that
11 discovery?

12 A. I was reviewing all of my
13 stuff as part of the deposition, preparing
14 for deposition.

15 Q. For Harford, you are now
16 estimating damages that are approximately
17 34 percent higher than you estimated in
18 your original report, correct?

19 A. Correct.

20 Q. Why?

21 A. So I was -- when I was doing
22 the high school and middle school teacher
23 calculations, I applied the share of time
24 loss for middle school to both middle and
25 high school instead of doing the

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1 appropriate share for high school applied
2 to the value for high school, so I just
3 multiplied the wrong cells together.

4 Q. Were there any other
5 corrections that you made to your Harford
6 report?

7 A. I think that's it.

8 Q. Did you make any corrections
9 in your amended Harford report to damages
10 relating to middle school teachers for the
11 school 2025?

12 A. Oh, yeah, there was one, I
13 had applied the total value for 2025
14 instead of 2024 for the last year.

15 Q. When did you discover that
16 you had made an error in your Harford
17 damages calculations?

18 A. That was Thursday.

19 Q. And what prompted that
20 discovery?

21 A. Part of my reviewing my files
22 in preparation for deposition.

23 Q. For Charleston, you are now
24 estimating damages that are approximately
25 13 percent lower than you estimated in your

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1 original report, correct?

2 A. Correct.

3 Q. Why?

4 A. So they had sent me a file
5 which had the different years for data and
6 the tabs were labeled 2017-18, '19, '20,
7 '21, '22, '23, '24 and in my world when you
8 see a year and it's a fiscal year, the year
9 assigned is for the later year, so 2016-17
10 to 23-24. But it turns out that they
11 actually had labeled 2017 for 2017-2018 and
12 so when I input the data, I assigned them
13 the wrong year. So that just shifted
14 everything off by a year and made it so
15 that I included effectively an extra year
16 that I didn't have data for. Because 24-25
17 is outside of my damages calculation. So
18 it's effectively the removal of that year
19 of data is what drives the decrease in the
20 calculation.

21 Q. How did you discover that you
22 had made that error?

23 A. As I was reviewing everything
24 in preparation for my deposition.

25 Q. How did you come to realize

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1 that you had misinterpreted that Excel
2 spreadsheet?

3 A. Oh, as I was literally going
4 through all of the raw files again and
5 within the raw file, it says that it's FY,
6 whatever it is. I had just written code.
7 I had opened the file and just written code
8 to import it and, you know, hadn't paid
9 close attention to what was actually in the
10 files, because I'm just importing it and
11 then running it through my program.

12 Q. Were there any other changes
13 in your damages estimates for Charleston
14 between your original report and your
15 amended report?

16 A. Everything just stems from
17 the shifting of the years.

18 Q. Did you make any change in
19 how you determined whether certain district
20 employees were teachers and included them
21 in your calculations?

22 A. No.

23 Q. Did you apply any discount to
24 the base pay values that you used for your
25 calculations?

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1 A. No, my understanding for
2 Charleston is that the data I was provided
3 are the base pay data.

4 Q. And when did you discover
5 that you had made an error in your
6 Charleston damages calculations?

7 A. That was last Wednesday.

8 Q. All right. Let's mark tab
9 four as Exhibit 4.

10 - - - - -

11 (Email dated 4/11/25 marked
12 Ward Exhibit 4 for
13 identification.)

14 - - - - -

15 BY MR. SANDOVAL-BUSHUR:

16 Q. And, Mr. Ward, do you see
17 that this is an email exchange between
18 Plaintiff's counsel, Tyler Graden, and
19 myself relating to your expert reports in
20 this case?

21 A. Yes.

22 Q. Have you briefly seen the
23 response that Mr. Graden provided regarding
24 the reasons for the changes to your expert
25 reports --

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1 A. Yes.

2 Q. -- on August 11?

3 A. Sorry, yes.

4 Q. Did you provide that
5 information to Mr. Graden?

6 A. I did.

7 Q. And the list of changes in
8 Mr. Graden's email, as we've just gone
9 over, is accurate, but it's not quite
10 complete; is that right?

11 A. I did forget the one middle
12 school year issue in Harford.

13 Q. Okay. And you also -- okay,
14 I got it.

15 You also issued an amended
16 report for Irvington, correct?

17 A. That is correct.

18 Q. And you issued that amended
19 report on May 31st, correct?

20 A. I believe that's the date.

21 Q. Your amended report for
22 Irvington increased the damages that you
23 estimated for Irvington, correct?

24 A. I don't recall, but I'll
25 trust you on that.

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1 Q. Why did your amended report
2 for Irvington increase the damages that you
3 estimated for Irvington?

4 A. The issue for Irvington was
5 one of the affidavits when I was entering
6 the data, the percentage should have
7 applied for 2025 and it got entered as
8 2015. So then when I was doing the
9 calculations for interpolating and figuring
10 out what percentage to apply in each year,
11 that was just wrong, so you had to correct
12 it and whatever it corrected came out of
13 it, I don't remember -- I actually don't
14 remember whether it went up or down.

15 Q. So your testimony is that the
16 only thing that changed in Irvington was a
17 single time estimate from an employee
18 affidavit that the year associated with
19 that estimate changed from 2015 to 2025?

20 A. Yeah, I think it was
21 principals and vice principals, I think.
22 It may have been all of the ones for that
23 person, I can't remember, but it was, yeah,
24 it was 2015 to 2025 was the issue.

25 Q. What prompted your discovery

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1 that you had made that error in the
2 Irvington report?

3 A. I think the attorneys for
4 Irvington were reviewing it and noticed
5 that the table in 2015 didn't -- or the
6 table of percentages didn't make sense
7 because it had a number for 2015 in it that
8 they hadn't provided and so they were,
9 like, this seems like an error and so I
10 went in and I was, like, yes, you are
11 correct, that's an error.

12 Q. Did you have a quality
13 control process that you followed before
14 you issued your opening reports to ensure
15 that you had accurately calculated your
16 damages estimates?

17 A. I did for most of it. There
18 was some stuff that was -- I was doing, you
19 know, kind of outside of my normal process,
20 which was to do it in Stata code that,
21 obviously, didn't get through the full
22 quality control checks.

23 Q. So what is your normal
24 quality control process before reaching
25 conclusions?

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1 A. Well, you know, you do your
2 work. You go back through your work. You
3 make sure that when you're looking at
4 results, they all make sense. That there's
5 nothing that's, you know, nonintuitive or
6 looks out of place. You know, you recheck
7 your code or your calculations.

8 Q. What was different in your
9 work in this case regarding your quality
10 control process as compared to your normal
11 process?

12 MR. GRADEN: Objection. You
13 can answer.

14 THE WITNESS: Well, you know,
15 the spreadsheet errors, I didn't do
16 it in my normal Stata code process
17 where I make --

18 - - - - -

19 (Stenographer clarification.)

20 - - - - -

21 THE WITNESS: It's called
22 Stata, S-T-A-T-A, right, where I'm
23 writing in, I want to multiply this
24 by this or add this by this, right,
25 which kind of forces you to be a

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1 little bit more diligent about what
2 you're doing. I thought these were
3 relatively simple calculations and
4 I could just do them in a simpler,
5 quicker manner in Excel. And, you
6 know, I just -- there's typos in
7 there, that's pretty much what it
8 is.

9 The Charleston thing, that
10 was just, you know, that's just
11 me thinking of data that I'm
12 going to be provided or going to
13 be what I assume them to be. And
14 you know, the original one,
15 that's also just a typo that
16 those data were checked and
17 somehow didn't get caught.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. Why did you not follow your
20 normal process of using Stata code in your
21 work in this case?

22 MR. GRADEN: Objection.

23 THE WITNESS: It didn't
24 seem -- I thought it would be
25 quicker and easier to do it in

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1 Excel, because it was a relatively
2 straightforward calculation.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. Was using Excel instead of
5 Stata a choice that you made?

6 A. Yeah.

7 Q. Were you asked to work in
8 Excel?

9 A. No, no, it was literally just
10 me being, like, oh, I just need to make
11 these adjustments, these are all kind of,
12 these are these protection things, like, it
13 will be a little bit easier for me to do
14 that just doing it in Excel and, you know,
15 just got some -- got some cells wrong.

16 Q. Who entered the cells wrong?

17 A. Me.

18 Q. Do you feel certain that
19 there are no other errors in your damages
20 calculations that you have not yet
21 discovered?

22 A. I have been through
23 everything. I feel pretty good that
24 everything is now correct.

25 Q. A few minutes ago, you handed

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1 me a set of folders that each have the name
2 of the school district on the tab and then
3 contain a document that is titled,
4 "Appendix B Materials Considered," correct?

5 A. That is correct.

6 Q. And it's your testimony that
7 the list of materials considered on this
8 Appendix B for each of the districts is
9 identical to the list of materials
10 considered in your opening reports in each
11 of the cases; is that correct?

12 A. That is correct.

13 Q. Okay. Just so that we have a
14 clean record, let's go ahead and mark all
15 of these. I am going to mark your Appendix
16 B materials considered for Breathitt as
17 Exhibit 5A. I guess I'll hand that back to
18 you.

19 A. You can hand it back, yeah.

20 - - - - -

21 (Appendix B Materials
22 Considered Breathitt Documents
23 marked Ward Exhibit 5A for
24 identification.)

25 - - - - -

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1 MR. SANDOVAL-BUSHUR: Counsel,
2 can we get another copy of each of
3 these just so that both the witness
4 can have one and I can have one?

5 MR. GRADEN: I believe there
6 are multiple copies of each.

7 MR. SANDOVAL-BUSHUR: I only
8 see one copy in each folder.

9 THE WITNESS: Yeah, there's
10 only one there.

11 MR. GRADEN: Okay. We can --
12 do you want to take a beat and get
13 those copies now or we can do that
14 at the next break --

15 MR. SANDOVAL-BUSHUR: We can
16 do it at the next break.

17 MR. GRADEN: -- whatever you
18 prefer. That's fine.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. Exhibit 5B is your Appendix B
21 materials considered for the Charleston
22 case, correct?

23 A. Correct.

24 - - - - -

25 (Appendix B Materials

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1 Considered Charleston Documents
2 marked Ward Exhibit 5B for
3 identification.)

4 - - - - -

5 BY MR. SANDOVAL-BUSHUR:

6 Q. Exhibit 5C is your Appendix B
7 materials considered for the DeKalb case,
8 correct?

9 A. Correct.

10 - - - - -

11 (Appendix B Materials
12 Considered DeKalb Documents
13 marked Ward Exhibit 5C for
14 identification.)

15 - - - - -

16 BY MR. SANDOVAL-BUSHUR:

17 Q. Exhibit 5D is your Appendix B
18 materials considered for the Harford case,
19 correct?

20 A. Correct.

21 - - - - -

22 (Appendix B Materials
23 Considered Harford Documents
24 marked Ward Exhibit 5D for
25 identification.)

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1 - - - - -

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Exhibit 5E is your Appendix B
4 materials considered for the Irvington
5 case, correct?

6 A. Correct.

7 - - - - -

8 (Appendix B Materials
9 Considered Irvington Documents
10 marked Ward Exhibit 5E for
11 identification.)

12 - - - - -

13 BY MR. SANDOVAL-BUSHUR:

14 Q. And Exhibit 5F is your
15 Appendix B materials considered for the
16 Tucson case, correct?

17 A. Correct.

18 - - - - -

19 (Appendix B Materials
20 Considered Tucson Documents
21 marked Ward Exhibit 5F for
22 identification.)

23 - - - - -

24 BY MR. SANDOVAL-BUSHUR:

25 Q. And, again, just so that we

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1 have a clean record, the list of materials
2 considered in Exhibits 5A through 5F are
3 identical to the list of materials
4 considered in your opening reports for each
5 of the six bellwether districts, correct?

6 A. Correct.

7 Q. Do your expert reports,
8 Exhibits 1A through 1F and Exhibits 2A
9 through 2F, including the list of materials
10 in Exhibits 5A through 5F, identify all of
11 the materials that you considered in
12 forming your opinions?

13 A. Yes.

14 Q. And there are no other
15 materials that are considered in forming
16 your opinions that are not contained in 1A
17 through 1F, 2A through 2F, and 5A through
18 5F, correct?

19 A. Correct.

20 Q. In forming your opinions in
21 this case, you did not consider any
22 internal documents of any Defendants, like,
23 internal emails or presentations, correct?

24 A. That is correct.

25 Q. In forming your opinions in

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1 this case, you did not consider any
2 deposition or other testimony of any
3 current or former employee of any
4 Defendant, correct?

5 A. That is correct.

6 Q. Were there any materials that
7 would have been helpful to you in forming
8 your opinions in this case that you did not
9 have access to?

10 A. The information I had was
11 sufficient to support my opinions.

12 Q. Were there any documents that
13 you ever asked for in order to help form
14 your opinions in this case that you were
15 not able to obtain?

16 A. I had asked for, you know,
17 data from DeKalb, I never got the
18 individual level data that I got for other
19 districts from that group. I don't recall
20 anything else where I didn't get anything
21 that was -- that I requested.

22 Q. So for all of the bellwether
23 districts except for DeKalb, you received
24 salary data that identified at the
25 individual employee level the salary that

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1 was paid to that employee; is that correct?

2 A. Yeah, for each of the other
3 five, I have data that speaks to salaries
4 for -- you know, Harford slightly is
5 different, it only includes middle and high
6 school teachers and counselors and
7 psychologists. But for all five of them, I
8 have at least some data that is at the
9 employee level and includes their salary.

10 Q. For DeKalb, you did not have
11 any data that identified the salary of
12 individual employees, correct?

13 A. That's correct.

14 Q. Do you know why DeKalb did
15 not provide you with data that identified
16 the salary of the individual employees who
17 were included in your damages calculations?

18 A. I do not.

19 Q. In forming your opinions in
20 this case, you considered some documents
21 that were produced by the school district
22 Plaintiffs, correct?

23 A. Yes.

24 Q. For the documents that were
25 produced by the school districts, did

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1 Plaintiffs' attorneys identify and provide
2 those to you?

3 MR. GRADEN: Objection.

4 Compound.

5 THE WITNESS: Some of them.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. There were documents that
8 were produced by the school districts in
9 this case that you considered in forming
10 your opinions that Plaintiffs' attorneys
11 did not identify and provide to you?

12 A. Oh, I'm sorry, I
13 misunderstood, no, yeah, everything they
14 provided -- I'm sorry --

15 Q. Let me just maybe ask the
16 question again.

17 A. Yeah, let me -- I thought you
18 were saying that they just decided what to
19 give me as opposed to, hey, do you have
20 something like this, right, that's where
21 I'm confused.

22 Q. Okay.

23 A. The genesis of the request.

24 Q. Did you request any
25 information from the school districts?

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1 A. Yes.

2 Q. Was there a list of
3 information that you requested from each
4 school district?

5 A. No, I would just call
6 attorneys and say, hey, do you have, say, a
7 contract or information on salaries.

8 Q. So there was no step in your
9 process of formulating your opinions in
10 which you identified a list of the
11 documents or information that you needed or
12 wanted from each district in order for you
13 to form your opinions; is that correct?

14 MR. GRADEN: Objection.

15 THE WITNESS: Oh, I mean, I
16 did not write them a list and send
17 them a list. I said, hey, I would
18 like data on individuals that
19 identifies their position, their
20 sites, and their base salary.
21 Before we got that, I was, like, do
22 we have information on FTEs or
23 average salaries or benefits, you
24 know, so it was essentially me
25 saying what kind of data can I get

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1 to do my calculation.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. There were some documents
4 that you relied on in reaching your
5 opinions that you did not specifically
6 request from Plaintiffs' attorneys but
7 Plaintiffs' attorneys provided to you; is
8 that right?

9 A. I mean, yeah, they sent me
10 lots of stuff.

11 Q. Aside from the documents that
12 were produced by the Plaintiffs, were there
13 any other documents that were provided to
14 you by Plaintiffs' attorneys?

15 A. I'm sorry, what?

16 Q. So publicly available
17 documents, academic articles --

18 A. Oh.

19 Q. -- were there any documents
20 in that category that were provided to you
21 by Plaintiffs' attorneys?

22 A. Not that I recall.

23 Q. You went out and found all of
24 those documents on your own?

25 A. I found those, yes.

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1 Q. Did you communicate in any
2 way whether by speaking in person, by
3 telephone, corresponding by email or
4 otherwise with any employees or people
5 otherwise affiliated with any of the
6 bellwether districts in forming your
7 opinions?

8 MR. GRADEN: Objection,
9 compound.

10 THE WITNESS: I had a brief
11 conversation with, I believe it was
12 the CFO in Charleston. Everything
13 else was mediated through
14 attorneys.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. So you spoke directly with
17 the Charleston CFO, correct?

18 A. That is correct.

19 Q. What is the name of that
20 individual?

21 A. Oh, I don't even know. I
22 just referred to him as the CFO.

23 Q. So, sitting here today, you
24 cannot tell me the name of the Charleston
25 CFO whom you spoke with?

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1 A. No, I cannot.

2 Q. Why did you speak with the
3 Charleston CFO?

4 A. I had asked for information
5 on the benefits and he was going to be on a
6 call and so they were, like, hey, join this
7 call and you can get the benefits
8 description from him.

9 Q. What information did the
10 Charleston CFO provide to you?

11 A. Just described the benefits
12 multiplier over time.

13 Q. Did you rely on that
14 information in forming your opinion?

15 A. I did.

16 Q. Did you take any notes or
17 otherwise record, memorialize your
18 conversation with the Charleston CFO?

19 MR. GRADEN: Objection.

20 Compound.

21 THE WITNESS: I just typed it
22 right into the calculations.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. So can you explain to me, you
25 were on the call, the Charleston CFO --

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1 A. Oh, yeah, so I know I'm
2 getting the benefits multiplier. There's a
3 part of my code where I just have a little
4 program that has this is the benefits
5 multiplier for this year. And so he said
6 something to the effect of if it started
7 here and it ended it here and it increased
8 by 1 percentage point between there, and so
9 I just typed in the base year, I typed in
10 the end year, and then I typed in the
11 numbers that would go between them.

12 Q. Did you ask for any
13 documentation to support what the
14 Charleston CFO told you was the benefits
15 multiplier for Charleston?

16 A. No, I trusted he knows that.

17 Q. Did you speak -- let me ask
18 it a little differently.

19 Did you communicate in any
20 way with any other employees other than the
21 Charleston CFO of any school districts in
22 forming your opinions in this case?

23 A. Not directly, no.

24 Q. What do you mean when you
25 say, "not directly"?

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1 A. If I had questions, I would
2 ask attorneys and the attorneys would go
3 and get the information and then they would
4 bring it back to me.

5 Q. Who did you receive
6 information from from any of the school
7 districts via an attorney in the way you
8 just described?

9 A. Who were they talking to? I
10 don't remember who they talked to. I don't
11 recall off the top of my head.

12 Q. So to the extent you received
13 information via the Plaintiffs' attorneys
14 from any employees of any of the school
15 districts, you do not know the identities
16 of those district employees, correct?

17 MR. GRADEN: Objection.

18 THE WITNESS: Oh, they might
19 have told me, I don't remember as
20 I'm sitting here.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. Okay. So sitting here today,
23 for the district employees for whom you
24 received information via Plaintiffs'
25 attorneys, you cannot provide the names of

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1 any of those employees, correct?

2 MR. GRADEN: Objection,
3 foundation and vague.

4 THE WITNESS: Not off the top
5 of my head, no.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. Well, this is my chance to
8 ask you who those people might be, but it
9 sounds like you, sitting here today, cannot
10 tell me any of those names, correct?

11 A. Nope.

12 Q. When you say, "no," you mean
13 that is correct?

14 A. I'm sorry, yes, no, I cannot.

15 MR. GRADEN: Objection.
16 Vague.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. Did you receive any
19 assistance from anyone other than
20 Plaintiffs' attorneys and the Charleston
21 CFO in preparing your reports?

22 A. What do you mean by
23 "assistance"?

24 Q. Did you have anyone who
25 assisted you in performing research

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1 relating to the formation of your opinions
2 in this case?

3 A. No.

4 Q. Did you have anyone who
5 assisted you in performing the
6 calculations --

7 A. No.

8 Q. -- that you did in the course
9 of your work in this case?

10 A. No.

11 Q. Did you have anyone who
12 assisted you in any data entry in
13 connection with this case?

14 A. Yes.

15 Q. Who was that?

16 A. Margaret Ward.

17 Q. Who is Margaret Ward?

18 A. She's my wife.

19 Q. And how specifically did
20 Margaret Ward assist you in connection with
21 this case?

22 A. I've had her first check the
23 data entry in -- for the affidavits and
24 then I got a few more affidavits and so I
25 had her just enter those. She also helped

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1 me format tables.

2 Q. Did anyone other than
3 Margaret Ward provide you with assistance
4 in connection with this case?

5 A. No.

6 Q. Did your wife, Margaret Ward,
7 perform any calculations or data analysis
8 in this case?

9 A. No.

10 Q. Did you use ChatGPT in your
11 work in this case?

12 A. Probably not, but maybe at
13 some point, I asked it a question.

14 Q. Do you believe that ChatGPT
15 is a reliable source of information?

16 A. I use it like a search
17 engine. So I think it's a -- to the extent
18 it provides me a link, I'm happy to follow
19 the link and see where it goes.

20 Q. Do you believe it is
21 appropriate to use ChatGPT for academic
22 research?

23 A. I mean, it's -- I think it's
24 a pretty good search engine. I think it's
25 very useful for surfacing information.

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1 Q. Are you able to tell me
2 whether or not you used ChatGPT in your
3 work in this case?

4 A. I don't recall if I did any
5 searches using ChatGPT or not. I'm still
6 kind of figuring out, you know, whether I'm
7 using it or not and this period of time was
8 when I was literally really just starting
9 to use ChatGPT. So maybe I did, maybe I
10 didn't, I don't recall. I certainly didn't
11 use it to actually, like, summarize
12 information. For me, it's just like,
13 please, find me articles that -- about X.

14 Q. So you may have used ChatGPT
15 in this case to help you find articles that
16 supported your opinions; is that right?

17 MR. GRADEN: Objection.

18 THE WITNESS: No, that might
19 inform my opinions, that might
20 help, you know, I'm not sure what
21 it would have been in this case,
22 but, you know, to the extent that I
23 do searches on the internet now, it
24 is a tool that I sometimes use.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. If you used ChatGPT to help
3 you find articles that might inform your
4 opinions in this case, was that the only
5 search engine that you used to identify
6 those articles?

7 A. No.

8 MR. GRADEN: Objection to
9 form. Foundation.

10 THE WITNESS: No, as I said,
11 like, I'm also using Google, and
12 yeah, I guess Google would be the
13 main one that I use.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. When were you retained by
16 Plaintiffs to work on this case?

17 A. Last summer or last fall,
18 somewhere in there.

19 Q. Who retained you?

20 A. This firm.

21 Q. And that is the Kessler Topaz
22 firm?

23 A. Yes, Kessler Topaz Meltzer
24 and whatever the last name is.

25 Q. Was there a particular

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1 attorney at Kessler Topaz who retained you?

2 A. No, I mean, I feel it has
3 been the same basic group the whole time,
4 so I couldn't tell you if there was one
5 specifically or not.

6 Q. What is Rubin Anders
7 Scientific?

8 A. They help match attorneys and
9 people who do expert witness testimony.

10 Q. And do you have a
11 relationship with Rubin Anders Scientific?

12 A. I mean, you know, I have been
13 in their little profile of experts for some
14 time.

15 Q. Do you have any relationship
16 with any other expert firms other Rubin
17 Anders?

18 A. I feel like, yeah.

19 Q. What other expert firms?

20 A. I couldn't tell you.

21 Q. For your work in this case,
22 were you initially contacted by Plaintiffs
23 through Rubin Anders?

24 A. Yeah, Rubin Anders reached
25 out to me.

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1 Q. What did you understand your
2 assignment was when you were retained?

3 A. I was going to do something
4 related to damages in a case involving
5 school districts and social media.

6 Q. Did your understanding of
7 your assignment change at any point during
8 the course of your work in this matter?

9 A. No, I mean, at the beginning
10 I didn't really understand what it was, so
11 yeah, it changed to what do you want me to
12 do to this is what we want you to do.

13 Q. And then so once you received
14 a more detailed assignment for your work in
15 this case, what did you understand your
16 assignment in this case to be?

17 A. It's exactly what's in my
18 reports. I was going to estimate the value
19 of time for staff and teachers.

20 Q. And so estimating the value
21 of time for staff and teachers, calculating
22 damages in that way was something that was
23 assigned to you by Plaintiffs' attorneys;
24 is that right?

25 A. Yeah, so it was we will

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1 provide you with estimates that describe
2 time loss, but we need somebody to go and
3 assemble the data to figure out what the
4 value of that time is and to apply that to
5 the time loss and so that was my assignment
6 and that's what's in my reports.

7 Q. You were paid \$665 an hour
8 for all of your work relating to this case,
9 correct?

10 A. That is correct.

11 Q. Do you perform any work that
12 is compensated at a different rate in
13 connection with this case?

14 A. Do I?

15 Q. Yeah.

16 A. Yeah, I mean, I have rates
17 from all sorts of periods of time and
18 various different types of clients.

19 Q. Sorry, I will reask that
20 question.

21 Was all of your time in this
22 case billed --

23 A. Oh, this case?

24 Q. Yes -- at \$665 an hour?

25 A. Yeah, \$665 an hour.

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1 Q. Did anyone else other than
2 yourself bill for work relating to your
3 reports at that \$665 an hour rate?

4 A. No.

5 Q. Did your wife also bill for
6 her work performed in connection with this
7 case?

8 A. Yes.

9 Q. And what rate did she bill
10 at?

11 A. I can't remember.

12 Q. Did your wife bill at \$250 an
13 hour?

14 A. If that's what's on the
15 invoices, that probably is what it is.

16 Q. Okay. In calendar year 2025,
17 what percentage of your total income has
18 come from compensation for your work on
19 this case?

20 MR. GRADEN: Objection.

21 THE WITNESS: Forty percent,
22 40, maybe half. I don't -- I do
23 not have a running total of how
24 much I've billed this year. But it
25 seems like, I mean, there was

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1 another big chunk at the beginning
2 of the year, so that seems about
3 right.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. So your best estimate is
6 somewhere between 40 and 50 percent of your
7 total income for calendar year 2025 has
8 come from compensation for work on this
9 case, correct?

10 MR. GRADEN: Objection.

11 THE WITNESS: I think so.

12 MR. SANDOVAL-BUSHUR: We're
13 going to mark tab five as
14 Exhibit 6.

15 - - - - -

16 (Invoices Bates Ward000001
17 to Ward 000005 marked Ward
18 Exhibit 6 for identification.)

19 - - - - -

20 BY MR. SANDOVAL-BUSHUR:

21 Q. Dr. Ward, Exhibit 6 is a set
22 of invoices relating to your work in this
23 case, correct?

24 A. Yes.

25 Q. Is this a complete set of

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1 invoices for your work relating to this
2 case?

3 A. I mean, it doesn't have stuff
4 for this month, but as of the end of July,
5 yes.

6 Q. So Exhibit 6 is a complete
7 set of the invoices for your work in this
8 case through the end of July 2025, correct?

9 A. That is correct.

10 Q. And all of the time in
11 Exhibit 5 is -- that is billed at the \$665
12 an hour rate is time that you personally
13 worked, correct?

14 MR. GRADEN: Objection.

15 THE WITNESS: That is correct.

16 MR. GRADEN: Just for clarity,
17 which exhibit?

18 BY MR. SANDOVAL-BUSHUR:

19 Q. Oh, thank you for saying
20 that. I'll reask the question.

21 All of the time in Exhibit 6
22 that is billed at \$665 an hour is time that
23 you personally worked, correct?

24 A. That is correct.

25 Q. All of the time in Exhibit 6

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1 that is billed at the rate of \$250 an hour
2 is time that your wife spent on this case;
3 is that correct?

4 A. That is correct.

5 Q. You billed a total of
6 335,000, a little more than \$335,000 for
7 your work on this case; is that right?

8 A. I haven't summed it up, but I
9 will trust that you have.

10 Q. Assuming that that's right
11 that you've billed a little over \$335,000
12 through July for your work on this case,
13 does that change at all your estimate of
14 what percentage of your total compensation
15 for calendar year 2025 relates to your work
16 on this case?

17 A. No.

18 Q. We do not have an invoice for
19 the month of August 2025. How much time
20 have you billed working on this case in the
21 month of August?

22 A. I have no idea.

23 Q. Can you offer any sort of
24 estimate?

25 A. So the reply reports were

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1 submitted before August, right? So
2 that's -- that was July 31st, so there's
3 none of that time, so it's just depo prep
4 time.

5 Q. You also submitted amended
6 reports.

7 A. Yeah, that rose out of the
8 depo prep, so, you know, there wasn't a ton
9 of time into that. I mean, it will be less
10 than, probably less than 40 hours, maybe
11 right around 40 hours.

12 Q. I would like to ask you about
13 your time billed in the period of May 10th
14 through May 19th.

15 A. Okay.

16 Q. And May 10th to May 19th is
17 the ten days leading up to your submission
18 of your expert report, correct?

19 A. That is correct.

20 Q. You billed a lot of time in
21 that period of May 10th to May 19th,
22 correct?

23 A. It was a very miserable
24 period, yes.

25 Q. It looks like you billed at

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1 least 20 hours eight of those ten days and
2 billed 17 hours the remaining two days; is
3 that right?

4 A. That is correct.

5 Q. Is that accurate that you
6 actually worked that many hours in the ten
7 days leading up to your submission of your
8 reports?

9 A. It is.

10 Q. How much sleep did you get in
11 those ten days?

12 A. Those four hours, I would
13 sleep four hours a day and I would work the
14 rest of the day.

15 Q. So your testimony is
16 100 percent of the time that you spent
17 other than sleeping was spent working on
18 your reports in this case?

19 A. Yup.

20 Q. Did you eat any meals during
21 the ten days leading up to to your
22 submission of reports in this case?

23 A. I mean, while I would work, I
24 would eat some food, but, typically, I was
25 eating about once a day.

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1 Q. So in the ten days leading up
2 to your submission of your reports in this
3 case, you were eating only about one meal a
4 day?

5 A. Only one meal, I might have,
6 you know, grabbed a banana or something as
7 I paced around and thought about stuff,
8 but, you know, it was -- I literally just
9 did work.

10 Q. Did getting such a small
11 amount of sleep in those ten days leading
12 up to your submission of your report
13 negatively impact your work at all?

14 A. I mean, it may have
15 contributed to those errors we talked about
16 earlier, but other than that, no, I mean,
17 it's just getting the calculations done.

18 Q. Were you working on any other
19 matters or projects other than this case in
20 the month of May 2025?

21 A. During the entire month, I
22 think there was, like, maybe a few hours
23 here and there where I had to take a phone
24 call or do something, but no, pretty much
25 this was what I was doing.

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1 Q. In those ten days leading up
2 to your submission of your report, May 10th
3 through May 19, 2025, were you working on
4 any other matters or projects other than
5 this?

6 A. Not that I recall.

7 Q. Was there a reason why you
8 had to cram so much work into the ten days
9 leading up to your submission of your
10 reports in this case?

11 MR. GRADEN: Objection.

12 THE WITNESS: I had to write
13 reports and I'm downstream of
14 pretty much everybody else. All
15 right. So I have to wait for
16 everybody to provide me the
17 information and so, yeah, you know,
18 it was a real sprint at the end.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. Was there any change in the
21 methodology for calculating damages that
22 occurred in the month of May 2025?

23 A. I mean, the methodology is
24 pretty straightforward, right? Multiply
25 time loss by value of time, right? So, no,

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1 that didn't change at all.

2 Q. Throughout the entire month
3 of May 2025, did you know that you were
4 going to be calculating teacher time loss
5 based on the results of a survey conducted
6 by Robert Klein?

7 A. I did.

8 Q. During the entire month of
9 May 2025, did you know that you were going
10 to be calculating non-teacher time loss
11 based on employee affidavits or
12 declarations?

13 A. I did.

14 Q. And, similarly, throughout
15 the entire month of April 2025, did you
16 know that you were going to be calculating
17 teacher time loss based on the results of a
18 survey conducted by Robert Klein?

19 A. No.

20 Q. When did you learn that you
21 would be calculating teacher time loss
22 based on the results of a survey conducted
23 by Robert Klein?

24 A. I don't remember exactly when
25 they told me that Mr. Klein was who was

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1 doing the survey, but it would have been
2 sometime in April.

3 Q. And throughout the entire
4 month of April 2025, did you know that you
5 were going to be calculating non-teacher
6 time loss based on the results or
7 information contained in employee
8 affidavits or declarations?

9 A. I don't remember exactly what
10 I knew on the employee affidavits, but when
11 I was restarted in early April, I was
12 reminded of that, if I didn't know it
13 already. If I had forgotten between
14 September and April, like, I don't remember
15 if we talked about this in September
16 specifically or not, but it was pointed out
17 when I was kind of restarted in April that
18 we are also getting time loss estimates
19 from affidavits.

20 Q. Do you know why you did not
21 receive the affidavits that you were using
22 for purposes of your damages calculations
23 until just a few days before your report
24 was submitted?

25 MR. GRADEN: Objection.

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1 THE WITNESS: I do not.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. What did you do to prepare
4 for your deposition?

5 A. I reviewed all of my reports
6 and the footnotes in them and the programs
7 and spreadsheets that did the calculations.
8 I met with the attorneys.

9 Q. How many meetings did you
10 have with attorneys to prepare for your
11 deposition today?

12 A. I met with them on Wednesday
13 and Thursday.

14 Q. Who did you meet with?

15 A. Tyler, Mr. Graden,
16 Ms. Jacobson. Who else was in the room?
17 Justin Swofford, Melissa Yeates, but only
18 yesterday, and there were a couple of
19 attorneys from the Irvington district,
20 Michael, and I can't remember the other
21 guy's name.

22 Q. So you met with approximately
23 six attorneys to prepare for your
24 deposition today?

25 A. At various points, yeah.

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1 Q. How much time total did you
2 spend meeting with attorneys to prepare for
3 your deposition today?

4 A. Twelve hours maybe.
5 Although, not all of that time was actually
6 meeting about the deposition, some of that
7 was, like, eating lunch or whatever, but I
8 was here for about six hours each day.

9 Q. You are a cofounder of a firm
10 called ABMJ Consulting, correct?

11 A. That is correct.

12 Q. What is ABMJ Consulting?

13 A. That's the firm that I work
14 at. We do economic analysis, policy
15 analysis, and management consulting.

16 Q. Is the other cofounder of
17 ABMJ Consulting your wife?

18 A. That is correct.

19 Q. Are there any other
20 cofounders of ABMJ?

21 A. No.

22 Q. Do you own 100 percent of
23 ABMJ Consulting?

24 A. My wife and I do.

25 Q. Are you an employee of ABMJ

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1 Consulting?

2 A. Yes.

3 Q. Is your wife an employee of
4 ABMJ Consulting?

5 A. Only occasionally.

6 Q. Does ABMJ Consulting have any
7 employees other than you and occasionally
8 your wife?

9 A. Nope.

10 Q. Since July 2021, have you
11 been employed by any entity other than ABMJ
12 Consulting?

13 A. I don't think so.

14 Q. You were previously employed
15 by the University of Montana, correct?

16 A. That is correct.

17 Q. But you have not been
18 employed by the University of Montana since
19 July 2021, correct?

20 A. No -- correct, yes. No, I
21 have not been employed by the University of
22 Montana.

23 Q. Before July 2021, were you a
24 part-time employee at the University of
25 Montana?

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1 A. Between, I think, July of
2 2018 and July of 2021, yes, I was a
3 part-time employee.

4 Q. From July 2018 to July 2021,
5 you were a research associate at the Rural
6 Institute for Inclusive Communities at the
7 University of Montana, correct?

8 A. That is correct.

9 Q. Why did that position end?

10 A. Oh, I just -- post-COVID, I
11 didn't want to keep doing it, so I said
12 I've got other things to do with my time.

13 Q. Were you ever a tenure track
14 professor at the University of Montana?

15 A. No, I was a research
16 professor.

17 Q. Have you ever been a tenure
18 track professor at any university?

19 A. No.

20 Q. Since July 2021, have you
21 received any compensation other than from
22 the work you do for ABMJ Consulting?

23 A. Oh, I have no idea.

24 Q. You have no idea if you have
25 received any compensation over the past

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1 four years from any entity other than from
2 your work at ABMJ Consulting?

3 A. I don't recall any, but, you
4 know, sometimes I get paid through other
5 things for whatever it is. I don't
6 remember. I don't think so, but I'm not
7 going so say for sure, because I definitely
8 don't remember how I got paid for anything
9 that I do, for everything that I've ever
10 done in the past three years or four years.

11 Q. Are there any sources of
12 income other than your work through ABMJ
13 Consulting that you think you might have
14 received over the past four years?

15 A. Listen, here's the issue.
16 Sometimes when people have me give speeches
17 or whatever it is, they will just issue me
18 a check and they won't actually issue it to
19 the firm and so I'm, like, okay, whatever,
20 that's a 1099 kind of thing. I don't
21 recall doing that in the past few years,
22 but I know that has come up at some point
23 in the past where somebody gave me a check
24 for something that wasn't specifically
25 ABMJ, so I had to do a separate thing in

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1 taxes. I don't recall that happening, but
2 I know that I vaguely remember that
3 happening at some point in the past.
4 Typically, I just run it through the firm,
5 if I can.

6 Q. Other than paying you in
7 connection with giving a speech, are there
8 any other sources of income that you think
9 you might have received over the past four
10 years?

11 A. I mean, there's things like
12 interest and dividends and things like
13 that, but I'm assuming you're not asking
14 about that.

15 Q. Right.

16 A. Not that I recall.

17 Q. Since July 2021, how much of
18 the work that you do at ABMJ Consulting has
19 been work relating to litigation or other
20 legal disputes?

21 A. It's typically about 50/50.
22 Other legal disputes, you mean?

23 Q. Right.

24 A. Sorry, litigation, it's about
25 50 percent.

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1 Q. And for that 50 percent, is
2 that all work in which you are hired to
3 serve as an expert witness or consultant?

4 A. Yes.

5 Q. What type of work do you do
6 in the 50 percent of your work for ABMJ
7 Consulting that is not work relating to
8 litigation?

9 A. Typically, it's, like, policy
10 work. You know, I mean, I've done a lot of
11 stuff on Medicaid expansion or kind of in
12 Montana, if there's a policy question about
13 labor markets or, you know, we want to do,
14 you know, so there's just a mix of, you
15 know, I'm known around the state and people
16 will call me up and ask me to help them
17 analyze something, write a report on
18 something, give a presentation on
19 something. So it's, yeah, but it's a mix
20 of that type of work.

21 Q. Who are your clients for work
22 relating to policy questions?

23 A. I mean, it's a big mix, but
24 it's a lot of Montana Healthcare
25 Foundation, the Missoula Economic

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1 Partnership. Sometimes they're just
2 private individuals who are wanting to have
3 a report done for something they're trying
4 to understand or lobby for. It's mostly
5 just, yeah, local foundations, local
6 economic development entities or other
7 random people.

8 Q. In how many cases have you
9 been hired to serve as an expert witness?

10 A. I have no idea.

11 Q. Can you offer any estimate of
12 the number of cases in which you have been
13 hired to serve as an expert witness?

14 A. Hundreds.

15 Q. And when you say, "hundreds,"
16 do you mean more than 200?

17 A. I have no idea. I have been
18 engaged in this work for some level for
19 nearly 20 years. I kind of assume that
20 it's kind of averaged out at maybe eight
21 cases a year, so -- but it could be more,
22 it could be less, I don't actually know.

23 Q. In how many cases in which
24 you have been hired as an expert witness
25 have you testified?

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1 A. Define testified.

2 Q. Let's start with testified at
3 trial.

4 A. I don't know off the top of
5 my head. I can remember maybe five or six.

6 Q. What percentage of your work
7 as an expert witness is on behalf of
8 Plaintiffs?

9 A. It's about 50/50.

10 Q. You have never been employed
11 in a K-12 educational setting; is that
12 correct?

13 A. That is correct.

14 Q. And you have never been
15 employed by a K-12 school district,
16 correct?

17 A. That is correct.

18 Q. And you have never worked at
19 all in a K-12 school district setting,
20 correct?

21 A. That is correct.

22 Q. Prior to your work in this
23 case, have you ever calculated damages
24 incurred by a school district?

25 A. I don't recall.

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1 Q. Sitting here today, you
2 cannot think of any prior case in which you
3 have calculated damages incurred by a
4 school district; is that right?

5 A. I don't remember, no.

6 Q. Prior to your work in this
7 case, you have never calculated opportunity
8 costs for a school district; is that
9 correct?

10 A. I've calculated it in things
11 related to education, I don't think I have
12 ever been hired by a school district to do
13 it.

14 Q. In what setting related to
15 education have you previously calculated
16 opportunity costs?

17 A. So I've done evaluations of
18 different programs in educational settings
19 and when you do evaluations, typically,
20 something that goes along with that
21 evaluation at least in terms of when you're
22 presenting it to clients is here's the
23 impact, but here's what it costs. And so
24 the cost estimate that I would have
25 discussed with people would have been

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1 equivalent to what I'm doing here.

2 Q. When you have previously
3 calculated opportunity costs in relation
4 with projects relating to education, did
5 you label what you calculated opportunity
6 costs?

7 A. I don't know if I would have
8 done that. That's a more technical jargony
9 term. We would have just called it costs.

10 Q. And in any of those prior
11 times that you calculated opportunity costs
12 in an education-related setting, did you
13 rely on time estimates provided by school
14 employees?

15 A. Yes. Or either the person
16 doing the intervention who would have then
17 drawn it from school employees, or -- I
18 think that was always the -- yeah, I was
19 doing it, I'm working with the person
20 running the intervention, so they're
21 telling it to me, but they're taking it
22 from school employees.

23 Q. In any of these other prior
24 times that you calculated opportunity costs
25 in an education-related setting, are there

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1 any publicly available reports or materials
2 relating to those?

3 A. I don't remember if it's in
4 the reports or not. You know, I mean, I
5 know we talk about it and it would have
6 been in presentations, but I don't know if
7 it made it into any of the final reports
8 that would have been public, but I
9 certainly recall doing it.

10 Q. And did any of these prior
11 instances in which you calculated
12 opportunity costs in an education-related
13 setting relate to a K-12 educational
14 setting?

15 A. Yes, they were all K-12
16 settings, at least the ones that I
17 remember.

18 Q. Were they all in the state of
19 Montana?

20 A. No, the one was in Oregon and
21 one was -- I was evaluating a program
22 that's done nationally. So, you know, I
23 had data to draw from from, you know, this
24 program that had been implemented in
25 dozens, if not hundreds of school

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1 districts, and so we were just trying to
2 have some way of talking about, here you've
3 got -- these are the effects of this
4 intervention, so but what does it take, so
5 you have this, you know, if you're going to
6 implement our little program, what are the
7 resources involved, that kind of stuff.

8 Q. Prior to this case, have you
9 previously calculated litigation damages
10 using an opportunity cost methodology?

11 A. I mean, almost all damages I
12 calculate are ultimately some form of
13 opportunity costs.

14 Q. What is social media?

15 A. What is social media? I
16 don't have any formal definition of social
17 media. When I think of social media, I'm
18 going to think of Instagram and Facebook
19 and SnapChat, TikTok.

20 Q. What are -- are there any
21 other platforms that you consider to be
22 social media?

23 A. YouTube. Those are the big
24 ones to me.

25 Q. Do you consider Twitter or X

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1 to be social media?

2 A. Oh, Twitter and X, yeah,
3 that's social media.

4 Q. Do you consider Reddit to be
5 social media?

6 A. I don't, but I don't, you
7 know, I don't really use Reddit.

8 Q. Do you think other people
9 might consider Reddit to be social media?

10 A. I have no --

11 MR. GRADEN: Objection.

12 THE WITNESS: I have no idea.

13 BY MR. SANDOVAL-BUSHUR:

14 Q. What would make Twitter
15 social media but Reddit not social media?

16 A. I don't -- when people say
17 social media companies, I think they
18 include Twitter in it, but I have no -- I
19 have no opinions about what the definition
20 of social media is. And I have no basis to
21 demarcate it. I have no -- yeah, I don't
22 have any opinions about what is or is not
23 social media or what the lines around what
24 is or is not social media are.

25 Q. Do you think everyone has the

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1 same understanding of what is and is not
2 social media?

3 MR. GRADEN: Objection.

4 THE WITNESS: I have no idea
5 what other people think.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. Do you consider Pinterest to
8 be social media?

9 A. I have no idea whether
10 Pinterest is social media or not.

11 Q. Do you consider Tumblr to be
12 social media?

13 A. I have no idea whether Tumblr
14 is social media or not.

15 Q. Do you consider Twitch to be
16 social media?

17 A. I have no idea whether Twitch
18 is social media.

19 Q. Do you consider Discord to be
20 social media?

21 A. I have no idea whether
22 Discord is social media.

23 Q. Do you consider Roblox to be
24 social media?

25 A. I have no idea whether Roblox

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1 is social media.

2 Q. Do you consider WhatsApp to
3 be social media?

4 A. I have no idea whether
5 WhatsApp is social media.

6 Q. Do you consider Netflix to be
7 social media?

8 A. I don't know whether Netflix
9 is social media.

10 Q. Are there any other platforms
11 you can think of that you consider to be
12 social media?

13 A. No, I don't -- again, I don't
14 have any definition of social media that
15 I'm operating from.

16 Q. You are not offering any
17 opinions in this case about the conduct of
18 any Defendant, correct?

19 A. That is correct.

20 Q. You are not offering an
21 opinion in this case on causation, correct?

22 A. That is correct.

23 Q. You are not offering the
24 opinion that Defendants' conduct caused
25 harms, correct?

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1 A. That is correct.

2 Q. And you are not offering the
3 opinion that Defendant -- any Defendant
4 caused any student to film or share videos
5 of fights, correct?

6 MR. GRADEN: Objection.

7 THE WITNESS: That is correct.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. You are not offering the
10 opinion that any Defendant caused any
11 student to bully another student, correct?

12 A. That is correct.

13 Q. You are not offering the
14 opinion that Defendants' conduct caused
15 damages, correct?

16 A. That is correct.

17 Q. You rely on others to make
18 the determination that social media caused
19 a loss of time, but you yourself did not
20 make the determination of causation,
21 correct?

22 A. That is correct.

23 Q. You are not offering the
24 opinion that Defendants' conduct caused any
25 bellwether district to experience worse

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1 educational outcomes, correct?

2 A. That is correct.

3 Q. You are not offering the
4 opinion that any Defendants' conduct caused
5 any mental illness, correct?

6 A. That is correct.

7 Are you at a pausing point?
8 I would like to take a break. It's getting
9 hot in here and I need to just stretch my
10 legs.

11 MR. SANDOVAL-BUSHUR: Sure.
12 Let's go off the record.

13 THE VIDEOGRAPHER: Going off
14 video record 10:24 a.m.

15 - - - - -

16 (A recess was taken at this time.)

17 - - - - -

18 THE VIDEOGRAPHER: Back on
19 video record, 10:42 a.m.

20 BY MR. SANDOVAL-BUSHUR:

21 Q. Dr. Ward, the damages that
22 you calculate in this case are what you
23 characterize as the amount of money that
24 each school district lost while teachers,
25 counselors, and/or administrators diverted

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1 time to address issues caused by social
2 media in the school environment, correct?

3 A. Is that a quote from
4 somewhere?

5 Q. If you want to take a look at
6 Exhibit 2F, page 1, paragraph 2.

7 A. Okay. I see that.

8 Q. So you agree that the damages
9 that you calculate in this case are what
10 you characterize as the amount of money
11 that each school district lost while
12 teachers, counselors, and/or administrators
13 diverted time to address issues caused by
14 social media in the school environment,
15 correct?

16 A. Correct.

17 Q. You are not offering an
18 opinion on the amount of money any school
19 district lost while teachers, counselors,
20 and/or administrators diverted time to
21 address issues caused by YouTube, correct?

22 MR. GRADEN: Objection. Form.

23 THE WITNESS: YouTube
24 specifically?

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Correct.

3 A. No, I'm not doing anything
4 for a specific company like YouTube.

5 Q. And you are not offering an
6 opinion on the amount of damages that
7 YouTube caused any school district to
8 incur, correct?

9 MR. GRADEN: Objection.

10 THE WITNESS: Not as a
11 specific company, no.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. You are not offering an
14 opinion on the amount of money any school
15 district lost while teachers, counselors,
16 and/or administrators diverted time to
17 address issues caused by SnapChat, TikTok,
18 Instagram, or Facebook, correct?

19 MR. GRADEN: Objection to
20 form.

21 THE WITNESS: I am not doing
22 any calculations for any specific
23 companies.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. You are not offering an

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1 opinion on the amount of damages that
2 SnapChat, TikTok, Instagram, or Facebook
3 caused any school district to incur,
4 correct?

5 MR. GRADEN: Objection. Form.

6 THE WITNESS: Correct. Not as
7 an individual -- not as individual
8 companies.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. If someone wanted to know how
11 much in damages a school district incurred
12 because of student use of YouTube
13 specifically, the damages estimates that
14 you have offered in this case would not
15 answer that question, correct?

16 A. Not unless somebody broke the
17 time loss estimates into specifics for each
18 company.

19 Q. You have not --

20 A. I have not.

21 Q. -- broke the time loss
22 estimates into specifics for each company,
23 correct?

24 A. That is correct.

25 Q. Are you aware of anyone who

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1 has broken the time loss estimates into
2 specifics for each company?

3 A. I am not.

4 Q. If someone wanted to know how
5 much in damages a school district incurred
6 because of student use of SnapChat or
7 TikTok or Instagram or Facebook, the
8 damages estimates that you have offered in
9 this case would not answer that question,
10 correct?

11 MR. GRADEN: Object to form.

12 THE WITNESS: They don't
13 provide estimates for each company,
14 no.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. The inputs for your damages
17 estimates can be put into two categories,
18 first, the amount of money that school
19 districts spend on salaries and benefits
20 for certain employee positions, and, two,
21 the amount of time that employees in those
22 positions spent addressing issues relating
23 to student use of social media; is that
24 correct?

25 A. Yes.

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1 Q. I want to start by asking
2 about the information that you rely on in
3 your damages calculations for the amount of
4 time that employees spent addressing issues
5 relating to student use of social media.

6 For your calculation of
7 damages relating to teachers, you rely on
8 the results of a teacher time survey that
9 was conducted by Robert Klein, correct?

10 A. That is correct.

11 Q. The results of Klein's
12 teacher time survey are an essential and
13 necessary input to your estimate of damages
14 relating to teacher salaries and benefits,
15 correct?

16 MR. GRADEN: Objection. Form.

17 THE WITNESS: That is correct.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. You did not play any role in
20 designing the Klein teacher time survey,
21 correct?

22 A. That is correct.

23 Q. You did not decide what
24 questions would be asked in the Klein
25 teacher time survey, correct?

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1 A. That is correct.

2 Q. You did not offer any input
3 on what questions would be asked in the
4 Klein teacher time survey, correct?

5 A. That is correct.

6 Q. You relied on Mr. Klein to
7 design the teacher time survey
8 appropriately, correct?

9 A. That is correct.

10 Q. You did not play any role in
11 conducting the Klein teacher time survey,
12 correct?

13 A. That is correct.

14 Q. You relied on Mr. Klein to
15 conduct the teacher time survey
16 appropriately, correct?

17 A. That is correct.

18 Q. You are not able to say
19 whether the people who responded to the
20 Klein teacher time survey provided accurate
21 responses, correct?

22 MR. GRADEN: Objection.

23 THE WITNESS: I have no
24 opinion about the -- what -- just
25 restate your question, I can't

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1 remember exactly.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Sure. You were not
4 personally able to say whether the people
5 who responded to the Klein teacher time
6 survey provided accurate responses,
7 correct?

8 A. I am not.

9 Q. You are not personally able
10 to say whether the survey results that Mr.
11 Klein reports accurately reflect the
12 answers that teachers actually gave,
13 correct?

14 A. I'm sorry, say that again.

15 Q. You are not personally able
16 to say whether Mr. Klein accurately
17 reported the answers that teachers gave to
18 the teacher time survey, correct?

19 MR. GRADEN: Objection.

20 THE WITNESS: No, I have the
21 raw data from the survey.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. Where did you get the raw
24 data from the Klein teacher time survey
25 from?

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1 A. It was provided to me by
2 Mr. Klein.

3 Q. And you relied on Mr. Klein
4 to provide you accurate raw data from the
5 survey, correct?

6 A. That is correct.

7 Q. Did you recalculate the
8 results of the Klein teacher time survey
9 using the raw data that Mr. Klein provided
10 you?

11 A. I replicated his means, yeah.

12 Q. Did you do anything else
13 to -- let me ask the question again.

14 Other than looking at the raw
15 data that Mr. Klein provided you to
16 recalculate the mean, did you do anything
17 else with that raw data?

18 A. I also calculated the
19 confidence interval around the mean. But
20 other than that, no, that's all I did.

21 Q. For purposes of your damages
22 estimates, you assume that the results of
23 the Klein teacher time survey are reliable
24 and accurate, correct?

25 MR. GRADEN: Objection.

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1 THE WITNESS: That is correct.

2 MR. SANDOVAL-BUSHUR: And,
3 Counsel, what is the basis for your
4 objection?

5 MR. GRADEN: Foundation.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. You are not offering the
8 opinion that the results of the Klein
9 teacher time survey are in fact reliable
10 and accurate, correct?

11 A. That is correct.

12 Q. So if, for example, the Klein
13 survey reported that high school teachers
14 in one district in a particular year spent
15 an average of 30 minutes per day addressing
16 issues related to student use of social
17 media, you are not offering the opinion
18 that teachers in fact spent an average of
19 30 minutes per day addressing issues
20 related to student use of social media,
21 correct?

22 A. Correct, I'm relying on Mr.
23 Klein's estimates in his survey.

24 Q. When you offer an estimate of
25 damages relating to teacher salaries and

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1 benefits, your opinion is that your damages
2 estimate is reliable if you assume that the
3 results of the Klein survey are reliable
4 and accurate, correct?

5 A. That is correct.

6 Q. If the Klein survey
7 overstates the amount of time that teachers
8 spend addressing issues related to student
9 use of social media, then your damages
10 estimate would overstate the amount of
11 damages, correct?

12 A. That's how multiplication
13 works, yeah.

14 Q. If the court or jury
15 concludes that the Klein teacher time
16 survey included time spent on activities
17 for which a school district cannot seek
18 damages in this case, then your damages
19 estimate relating to teacher salaries and
20 benefits would not be accurate, correct?

21 MR. GRADEN: Objection.

22 THE WITNESS: Not without
23 adjustment to whatever the jury
24 found.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. But that is -- the statement
3 I just made is correct?

4 A. Yes.

5 Q. Okay.

6 A. I'm saying that if they found
7 a different number, you can use the numbers
8 in my report to calculate for whatever, you
9 know, the jury ultimately found, assuming
10 they have found a number.

11 Q. If the court or jury were to
12 conclude that the Klein survey is not
13 reliable and accurate, then you would agree
14 that they could not rely on your damages
15 estimates relating to teacher salaries and
16 benefits, correct?

17 MR. GRADEN: Objection form.

18 THE WITNESS: They could not
19 rely on the numbers as is. They
20 could rely on the -- they could
21 make adjustments to those numbers
22 based on whatever they found, if
23 they found a different number.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. Did you ever communicate with

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1 Mr. Klein about the survey?

2 A. We had some phone calls, yes.

3 Q. Did you communicate with Mr.
4 Klein about the survey before the survey
5 was given?

6 A. No, I did not.

7 Q. Are you relying in any way in
8 offering your opinions on any of your
9 communications with Mr. Klein?

10 A. Sorry, say that again.

11 Q. Are you, in offering your
12 opinions in this case, relying in any way
13 on your communications with Mr. Klein?

14 A. No, everything ultimately is
15 in his report that I'm relying on.

16 Q. For your calculation of
17 damages relating to non-teacher positions
18 such as counselors and school
19 administrators, you rely for most districts
20 on time estimates and affidavits of
21 district employees, correct?

22 A. That is correct.

23 Q. And just a wording
24 clarification, in some of your reports, you
25 refer to affidavits and in some reports,

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1 you refer to declarations. Can we agree
2 that if I refer to either affidavits or
3 declarations, we'll both understand that
4 that encompasses both affidavits and
5 declarations?

6 A. Absolutely. In my mind,
7 they're all affidavits, but if something
8 was labeled a declaration, in my brain,
9 it's an affidavit. So we're on the same
10 page there.

11 Q. Great. For your calculation
12 of damages relating to non-teacher
13 positions for Breathitt, Charleston,
14 Irvington, and Tucson, you rely on time
15 estimates and affidavits of district
16 employees, correct?

17 A. Can you list the districts
18 again?

19 Q. Breathitt, Charleston,
20 Irvington, and Tucson.

21 A. Yes, that's correct.

22 Q. You consider the time
23 estimates from the affidavits of district
24 employees to be an essential and necessary
25 input to your estimate of damages relating

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1 to non-teacher salaries and benefits,
2 correct?

3 MR. GRADEN: Objection. Form.

4 THE WITNESS: Correct.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. You are not able to say
7 whether the time estimates provided in the
8 employee affidavits are accurate, correct?

9 A. That's correct.

10 Q. You did not take any steps to
11 validate the accuracy of the time estimates
12 provided in the employee affidavits,
13 correct?

14 A. I trusted that the employees
15 reported their information correctly.

16 Q. And you did not take any
17 steps to validate the accuracy of the time
18 estimates provided in the employee
19 affidavits, correct?

20 A. Other than reading what they
21 said, correct. And their depositions of
22 those who have been deposed.

23 Q. When you initially issued
24 your damages estimates for the bellwether
25 districts, you had not reviewed any of the

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1 deposition testimony of any of the
2 witnesses who provided affidavits, correct?

3 A. I don't think I had.

4 Q. If you had reviewed the
5 deposition testimony of any of the
6 employees who provided affidavits at the
7 time that you issued your initial reports,
8 you would have included a citation to that
9 deposition testimony in your report,
10 correct?

11 A. That's correct.

12 Q. You relied on the employees
13 who provided affidavits to accurately
14 estimate time, correct?

15 A. That's correct.

16 Q. For purposes of your damages
17 estimates, you assume that the time
18 estimates in employee affidavits are
19 reliable and accurate, correct?

20 A. That's correct.

21 Q. So if, for example, an
22 employee affidavit estimated that employees
23 in a particular position spent 25 percent
24 of their time addressing issues related to
25 student use of social media, you are not

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1 offering the opinion that employees in that
2 position in fact spent 25 percent of their
3 time addressing issues related to student
4 use of social media, correct?

5 A. That's correct.

6 Q. That is the same for all
7 estimates for all positions, correct?

8 A. That's correct.

9 Q. When you offer an estimate of
10 damages relating to non-teacher salaries
11 and benefits, your opinion is that your
12 damages estimate is reliable if you assume
13 that the employee affidavits are reliable
14 and accurate, correct?

15 MR. GRADEN: Objection.

16 THE WITNESS: That's correct.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. If employee affidavits
19 overstate the amount of time that employees
20 in a particular position spend addressing
21 issues related to student use of social
22 media, then your damages estimate would
23 overstate the amount of damages, correct?

24 A. That's correct.

25 Q. If the court or jury

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1 concludes that the employee affidavits
2 included time spent on activities for which
3 a school district cannot seek damages in
4 this case, then your damages estimate
5 relating to the non-teacher salaries and
6 benefits would not be accurate, correct?

7 MR. GRADEN: Objection.

8 THE WITNESS: Not without
9 adjustments for whatever the court
10 found.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. If the court or jury were to
13 conclude that the employee affidavits are
14 not reliable and accurate, then you would
15 agree that they could not rely on your
16 damages estimates relating to non-teacher
17 salaries and benefits, correct?

18 MR. GRADEN: Objection. Form.

19 THE WITNESS: Not without
20 making adjustments.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. For the Harford School
23 District for your calculation of damages
24 relating to non-teacher positions, you rely
25 on time estimates provided in an

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1 interrogatory response and depositions of
2 three district employees, correct?

3 A. That is correct.

4 Q. The time estimates from the
5 interrogatory response and the three
6 district employee depositions are an
7 essential and necessary input to your
8 estimate of damages relating to non-teacher
9 salaries and benefits for Harford, right?

10 MR. GRADEN: Objection. Form.

11 THE WITNESS: That is correct.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. You are not able to say
14 whether the time estimates provided in the
15 interrogatory responses or the three
16 Harford employee depositions are accurate,
17 correct?

18 MR. GRADEN: Objection. Form.

19 THE WITNESS: That is correct.

20 BY MR. SANDOVAL-BUSHUR:

21 Q. And you did not take any
22 steps to validate the accuracy of the time
23 estimates provided in the interrogatory
24 responses, correct?

25 A. Beyond just reviewing what

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1 was in the depositions.

2 Q. And you did not take any
3 steps to validate the accuracy of any time
4 estimates that were provided in any
5 employee depositions for any district,
6 correct?

7 A. Other than the context of the
8 deposition itself or the affidavit or
9 interrogatory.

10 Q. You relied on the employees
11 to accurately estimate time in their
12 deposition testimony, correct?

13 A. That is correct.

14 Q. For purposes of your damages
15 estimates for Harford, you assume that the
16 time estimates and interrogatory responses
17 and employee depositions are reliable and
18 accurate, correct?

19 MR. GRADEN: Objection.

20 THE WITNESS: That is correct.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. If an employee estimated that
23 school counselors spent 10 percent of their
24 time addressing issues related to student
25 use of social media, you are not offering

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1 the opinion that employees in that position
2 in fact spent 10 percent of their time
3 addressing issues relating to student use
4 of social media, correct?

5 A. That is correct.

6 Q. And that's the same for all
7 estimates for all positions, correct?

8 A. That is correct.

9 Q. When you offer an estimate of
10 damages relating to non-teacher salaries
11 and benefits, your opinion is that your
12 damages estimate is reliable if you assume
13 that the interrogatory responses and
14 employee deposition testimony is reliable
15 and accurate, correct?

16 A. That is correct.

17 Q. If an interrogatory response
18 or employee deposition overstated the
19 amount of time that employees in a
20 particular position spent addressing issues
21 relating to student use of social media,
22 then your damages estimate would overstate
23 the amount of damages, correct?

24 A. That's correct.

25 Q. If the court or jury

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1 concludes that the interrogatory response
2 or employee deposition testimony included
3 time spent on activities for which a school
4 district cannot seek damages in this case,
5 then your damages estimates relating to
6 non-teacher salaries and benefits would not
7 be accurate, correct?

8 A. Not without adjustment to
9 whatever the court found.

10 Q. If the court or jury were to
11 conclude that the interrogatory responses
12 or employee deposition testimony is not
13 reliable or accurate, then you would agree
14 that they could not rely on your damages
15 estimates for non-teacher salaries and
16 benefits, correct?

17 A. Not --

18 MR. GRADEN: Objection. Form.

19 THE WITNESS: Not without
20 adjustment to whatever they found
21 for the loss time.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. It was not part of your
24 assignment in this case to determine
25 whether any data from the bellwether school

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1 districts corroborated the employee
2 estimates of time spent addressing student
3 use of social media, correct?

4 A. I take the time loss
5 estimates as given by those who provided it
6 to me.

7 Q. Was it part of your
8 assignment in this case to determine
9 whether any data from the bellwether
10 districts corroborated the employee
11 estimates of time spent addressing student
12 use of social media?

13 A. No, it was not part of my
14 assignment.

15 Q. You are not opining about
16 whether any data from any bellwether school
17 district in fact corroborates the employee
18 estimates of time spent addressing student
19 use of social media, correct?

20 A. Yes, I'm not opining on
21 whether or not there's data that
22 corroborates it.

23 Q. You relied on the time
24 estimates from the Klein teacher time
25 survey because that is what Plaintiffs'

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1 counsel assigned you to do, correct?

2 MR. GRADEN: Objection.

3 THE WITNESS: I relied on it
4 because it's the estimate of time
5 loss that was provided to me by an
6 expert witness.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. Did Plaintiffs' attorneys
9 assign you to estimate damages using the
10 results of the Klein teacher time survey?

11 A. I mean, I was provided the
12 Klein survey to estimate damages, so that's
13 the information that I was provided. I
14 don't think it was assigned to me that I
15 had to use it. It's the information that I
16 was provided and I have no reason to doubt
17 its, you know, usefulness for my purposes.

18 Q. Did you ask for the Klein
19 teacher time survey to be conducted?

20 A. I did not.

21 Q. Plaintiffs' attorneys told
22 you that the Klein teacher time survey was
23 being conducted, correct?

24 A. Yes.

25 Q. And Plaintiffs' attorneys

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1 asked you to estimate damages using the
2 results of the Klein teacher time survey,
3 correct?

4 MR. GRADEN: Objection.
5 Foundation.

6 THE WITNESS: They asked me to
7 calculate damages and I was
8 provided the Klein survey. I don't
9 think it was explicit that my
10 assignment was you have to use
11 this, but that's what was available
12 to me.

13 BY MR. SANDOVAL-BUSHUR:

14 Q. Was there any other data that
15 you considered using other than the Klein
16 teacher time survey to estimate the time
17 spent by teachers for purposes of your
18 damages estimates?

19 A. No.

20 Q. Did you rely on the time
21 estimates and employee affidavits because
22 Plaintiffs' counsel asked you to do so in
23 estimating damages for non-teacher
24 positions?

25 A. I mean, I was asked to

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1 calculate damages using estimates of lost
2 times and those are what I was provided to
3 do those calculations.

4 Q. Did you ask for Plaintiffs'
5 counsel to collect affidavits of employees
6 estimating the amount of time that they
7 spent for purposes of your damages
8 calculations?

9 A. I did not ask them that, no.

10 Q. Plaintiffs' attorneys
11 provided you with the employee affidavits
12 that you relied on in this case, correct?

13 A. That is correct.

14 Q. And did you ask Plaintiffs'
15 attorneys for interrogatory responses or
16 employee depositions identifying the amount
17 of time they spent addressing issues
18 relating to social media for purposes of
19 your damages estimates?

20 MR. GRADEN: Objection.

21 MR. LANDS: Objection.

22 MR. GRADEN: Objection. Form.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. Did you ask Plaintiffs'
25 attorney for interrogatory responses

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1 estimating the amount of time that
2 employees spent for purposes of your
3 damages calculations?

4 A. I mean, I asked for anything
5 that provided an estimate of time loss. I
6 don't know if I specifically asked for that
7 one, but I said, hey, is there anything for
8 this district and that's what I was
9 provided.

10 Q. It was not part of your
11 assignment in this case to determine
12 whether any employee's time estimates
13 distinguished between time spent on issues
14 relating to phones and time spent on issues
15 relating to social media specifically,
16 correct?

17 A. No, that was not part of my
18 assignment.

19 Q. You are not opining that any
20 employee's time estimates in fact
21 distinguish between time spent on issues
22 relating to phones and time spent on issues
23 relating to social media specifically,
24 correct?

25 A. I'm trusting that they've

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1 provided me with the correct time estimate
2 for use in this case.

3 Q. But you are not opining that
4 any employee's time estimates in fact
5 distinguish between time spent on issues
6 relating to phones and time spent on issues
7 spent on social media specifically,
8 correct?

9 A. I am not offering that
10 opinion.

11 Q. I want to ask now about the
12 other category of inputs in your damages
13 estimate calculations. That is the amount
14 of money that school districts spent on
15 salaries and benefits for certain employee
16 positions; is that right that that's the
17 other category?

18 A. That's a fair
19 characterization, yes.

20 Q. You used different sources of
21 information, depending on the district, to
22 estimate the amount of money that each
23 district spent on salaries and benefits for
24 the relevant employee positions, correct?

25 A. That is correct.

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1 Q. For each district, you relied
2 on data that was provided by the district
3 for your calculation of employee salaries,
4 correct?

5 A. With the exception of DeKalb,
6 and then I also incorporate some federal
7 data for Breathitt as well.

8 Q. Okay. So let me ask the
9 question then for Charleston, Harford,
10 Irvington, and Tucson. For Charleston,
11 Harford, Irvington, and Tucson, you relied
12 on data that was provided by the district
13 for your calculation of employee salaries,
14 correct?

15 A. That is correct.

16 Q. You relied on each district
17 to provide you with reliable and accurate
18 information on employee salaries, correct?

19 A. That is correct.

20 Q. You assumed that the
21 information on employee salaries that each
22 district provided you was accurate,
23 correct?

24 A. That is correct.

25 Q. You do not know whether the

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1 information that each district provided on
2 employee salaries was in fact reliable and
3 accurate, correct?

4 MR. GRADEN: Objection. Form.

5 THE WITNESS: I trusted that
6 the district provided the
7 information requested, which I then
8 assumed was accurate.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. But you personally do not
11 know whether the information that each
12 district provided on employee salaries was
13 reliable and accurate, correct?

14 MR. GRADEN: Objection. Form.

15 THE WITNESS: That is correct.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. Your opinion is that your
18 damages estimate is reliable if you assume
19 that the information that the district
20 provided about employee salaries was
21 accurate, correct?

22 A. That is correct.

23 Q. For the Breathitt and DeKalb
24 cases, you relied, in part, on data that
25 was provided via the common core of data;

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1 is that correct?

2 A. That's correct.

3 Q. And you relied on the data
4 for purposes of your calculation of
5 employee salaries, right? Correct?

6 A. It's a little bit different
7 for each of them, but, yes, I was using
8 employee salary data from -- for purposes
9 of the wage and benefit part of the
10 calculation, I was using it for wages.

11 Q. The common core data that you
12 relied on is information that is reported
13 by the school district; is that correct?

14 A. That is correct.

15 Q. And so for both Breathitt and
16 DeKalb, you relied on each of those
17 districts to provide reliable and accurate
18 information on employee wages, correct?

19 A. That's correct.

20 Q. You assume that the
21 information on employee wages that each
22 district provided was accurate, correct?

23 A. That is correct.

24 Q. You do not personally know
25 whether the information that each district

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1 provided on employee wages was in fact
2 reliable and accurate, correct?

3 A. I assume what they report to
4 the federal government is accurate.

5 Q. But you do not know
6 personally whether the information that the
7 districts provided on employee wages is in
8 fact reliable and accurate, correct?

9 A. That's correct.

10 Q. And your opinion is that your
11 damages estimate is reliable if you assume
12 that the information that the district has
13 provided about employee wages was accurate,
14 correct?

15 A. That's correct.

16 Q. For your damages
17 calculations, you also relied on data that
18 was provided by the district for your
19 calculation of employee benefits, correct?

20 A. Sorry, say that again.

21 Q. For purposes of your damages
22 calculations, you relied on data that was
23 reported by the district for your
24 calculation of employee benefits, correct?

25 A. That's correct.

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1 Q. And you relied on each
2 district to provide reliable and accurate
3 information that you then relied on for
4 your calculations of employee benefits,
5 correct?

6 A. That's correct.

7 Q. And your opinion is that your
8 damages estimate is reliable if you assume
9 that the information on which you relied
10 provides accurate information relating to
11 employee benefits, correct?

12 MR. GRADEN: Objection.

13 THE WITNESS: That's correct.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. To estimate damages, you had
16 to determine which employee positions from
17 the employee salary data that you received
18 should be multiplied by which time
19 estimates, correct?

20 A. That's correct.

21 Q. And sometimes, the titles of
22 employee positions in the employee salary
23 data that you received did not match the
24 titles of the positions that were used by
25 the employees that provided time estimates

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1 in affidavits or depositions, correct?

2 A. I don't recall there being a
3 lot of mismatch, typically, they were
4 matched almost identically if not exactly.
5 In the affidavits, it's, you know, usually
6 I'm providing information for vice
7 principals or assistant principals and
8 there was something called assistant
9 principal in the data.

10 Q. For example, an employee
11 affidavit may have estimated time spent by
12 counselors, but the employee salary data
13 that you relied on identified people with
14 the job title guidance?

15 A. Oh.

16 Q. Is that right?

17 A. Fair, but, you know, the
18 guidance counselor is the typical
19 abbreviation for guidance counselor or
20 counselor.

21 Q. What methodology did you use
22 to determine which employee positions from
23 the employee salary data should be
24 multiplied by which time estimates?

25 A. I looked through the, you

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1 know, the job position descriptions to find
2 the positions that would reasonably match
3 the positions that were being listed.

4 Q. How did you determine that
5 the position descriptions reasonably
6 matched the positions that were listed in
7 an employee affidavit or described in an
8 employee declaration?

9 A. Because usually they matched
10 identically and if not, it's something like
11 guidance for guidance counselor, which is a
12 pretty common and intuitive way of
13 identifying positions in a database.

14 Q. When the job title used in an
15 employee affidavit estimating time did not
16 exactly match the job title in the employee
17 salary data, you looked at the titles and
18 made your own judgments about whether you
19 thought the job title used in the employee
20 affidavit applied to the job title in the
21 employee salary data, correct?

22 A. Yes.

23 Q. And you did not validate with
24 any of the employees who submitted
25 affidavits estimating time whether the job

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1 titles provided in their affidavits matched
2 the job titles that you were using in the
3 employee salary data, correct?

4 A. I mean, it all seemed pretty
5 straightforward to me.

6 Q. But you did not validate with
7 any of the employees who submitted
8 affidavits whether the job titles provided
9 in their affidavits matched or applied to
10 the job titles that you used in the
11 employee salary data, correct?

12 A. Not that I recall.

13 Q. Do you think it's possible
14 that you did that?

15 A. I'm going to say maybe in one
16 case, there was some ambiguity, but I don't
17 remember off the top of my head.

18 Q. In that case, would you have
19 spoken to the -- a district employee or
20 would you have asked a question of the
21 Plaintiffs' counsel?

22 A. I would have asked the
23 question of the attorneys.

24 Q. You are not an offering an
25 opinion on the amount of damages that

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1 Defendants' platforms as distinct from all
2 social media caused any school district to
3 incur, correct?

4 A. Say that again.

5 Q. You are not offering an
6 opinion on the amount of damages that
7 Defendants' platforms as distinct from all
8 social media caused any school district to
9 incur, correct?

10 A. My understanding is that the
11 affidavits and the survey, that that was
12 part of how they were constructed was it's
13 supposed to be time loss related to
14 Defendants' conduct.

15 Q. And can you explain to me the
16 basis of that understanding?

17 A. Well, I mean, A, it's being
18 done in the context of litigation, so
19 presumably, that's how it's being done,
20 but, you know, I have asked that to make
21 sure that, that's my understanding is that
22 that's what people are asking. It's also,
23 I think, in some of the depositions that
24 have since been taken place, I think they
25 asked them those types of questions.

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1 Q. Did you in the course of your
2 work in this case read the questions that
3 Klein -- the Klein teacher time survey
4 asked teachers?

5 A. I did.

6 Q. And so you know that the
7 Klein teacher time survey in its questions
8 about social media is not limited to the
9 Defendants, correct?

10 MR. GRADEN: Objection.

11 THE WITNESS: I don't know.

12 That's a question for him, whether
13 or not he thinks it's limited to
14 them or not.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. Well, I mean you can read the
17 questions, right?

18 A. That's a question for Klein.

19 Q. Sorry, the question -- it's
20 respectfully not. My question to you is
21 you can read the questions in Mr. Klein's
22 survey, correct?

23 A. Yeah.

24 Q. And you have read them,
25 correct?

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1 A. I have.

2 Q. And you know that his
3 questions about social media are not
4 limited to Defendants' platforms, correct?

5 MR. GRADEN: Objection.

6 THE WITNESS: I do not know
7 that.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. Okay. Well, let's take a
10 look at it. Let's mark tab 6A as
11 Exhibit 7.

12 - - - - -

13 (Robert L. Klein Breathitt
14 Expert Report dated 5/18/25
15 marked Ward Exhibit 7 for
16 identification.)

17 - - - - -

18 BY MR. SANDOVAL-BUSHUR:

19 Q. And, Dr. Ward, Exhibit 6A --
20 I'm sorry, Exhibit 7 is Mr. Klein's report
21 for the Breathitt case, correct? If you
22 turn to the page 3, paragraph 11, you'll
23 see the identification of the Plaintiff.

24 A. Okay. I see that.

25 Q. And you understand that

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1 Exhibit 7 is Mr. Klein's expert report for
2 the Breathitt case, correct?

3 A. That's what it appears to be.

4 Q. Have you seen this before?

5 A. I've seen one of his -- I
6 mean, yes, I've seen this report, yes.

7 Q. And you understand that Mr.
8 Klein asked the same survey questions in
9 all of the districts, right?

10 A. That is my understanding,
11 yes.

12 Q. Okay. Let's turn to page 8
13 of Mr. Klein's report. And you see here
14 question three, which is one of the
15 questions that was asked as part of the
16 Klein teacher time survey, correct?

17 A. Uh-huh.

18 Q. Okay. And you see that Mr.
19 Klein in the survey asked teachers about
20 which of the following factors diverted
21 time away from teaching during scheduled
22 instruction time, correct?

23 A. Yup.

24 Q. And the first option that
25 teachers could select is, "Unauthorized

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1 student use of social media (e.g.,
2 Facebook, Instagram, SnapChat, TikTok,
3 YouTube, etc.) during class," correct?

4 A. Okay.

5 Q. Do you see that?

6 A. Yes.

7 Q. And you understand that
8 teachers then estimated the amount of time
9 that they spent relating to unauthorized
10 use of social media, e.g., Facebook,
11 Instagram, SnapChat, YouTube, et cetera,
12 during class, and you relied on the results
13 of teachers answering that question in
14 providing the damages calculations in your
15 report, correct?

16 A. Correct.

17 Q. Now, you would agree with me
18 that the Klein survey when it asked
19 teachers about social media, it did not
20 limit the platforms included in the
21 definition of social media to Defendants'
22 platforms, correct?

23 A. I mean, those are the ones it
24 lists.

25 Q. Well, it lists Defendants'

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1 platforms, but it also says, "e.g." and
2 that means, for example, correct?

3 A. I think that's what it means,
4 yeah.

5 Q. And it also includes et
6 cetera, correct?

7 A. Okay.

8 Q. So if I give -- if someone is
9 provided with a list that says, for
10 example, give some examples, and then says
11 et cetera at the end, the category being
12 described includes more than just the
13 examples that are provided, correct?

14 A. It doesn't have to, it could,
15 but it doesn't have to.

16 Q. Well, you know that there are
17 other social media platforms besides just
18 Defendants' platforms, correct?

19 A. Again, I don't know what
20 qualifies as social media personally, but
21 if you're asking me, I would be thinking of
22 these ones probably.

23 Q. You would also be thinking of
24 Twitter, right?

25 A. Potentially, yeah.

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1 Q. Other people may be thinking
2 of other platforms as well, correct?

3 MR. GRADEN: Objection.

4 THE WITNESS: I don't know
5 what other people are thinking. I
6 have no opinion about what other
7 people are thinking.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. Well, Mr. Ward, you are aware
10 that your damages estimate relating to
11 teacher time is an estimate that relates to
12 time spent relating to all social media,
13 not just the Defendants' platforms,
14 correct?

15 MR. GRADEN: Objection.

16 THE WITNESS: No, that's not
17 my understanding. My understanding
18 is Mr. Klein and the affiants were
19 tasked with estimating time loss
20 related to this lawsuit. I'm
21 taking what they're giving and I'm
22 saying, great, as we just went
23 through, I assume that they have
24 provided me with the -- a reliable
25 estimate of time loss that is

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1 appropriate for use in this
2 calculation. That is all I'm
3 doing. I have no opinions about
4 exactly what Mr. Klein's wording
5 and what it means, I haven't
6 thought about this. I don't know
7 what it means. I'm not the survey
8 expert.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. So then, Dr. Ward, you have
11 no idea whether your damages estimates are
12 relating to all social media or just the
13 Defendants' platforms, correct?

14 MR. GRADEN: Objection.

15 THE WITNESS: I have -- my
16 estimates take the time loss
17 estimates of the affiants and Mr.
18 Klein, take them as given, whatever
19 they've included I trust them to
20 have included whatever is
21 appropriate.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. No one told you that Mr.
24 Klein's survey includes only time spent
25 relating to Defendants' platforms, correct?

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1 A. I don't think I ever really
2 thought about it. I assume that it -- it's
3 appropriate for use in this case, because
4 he's an expert witness in this case,
5 presumably, you know, he's thought about
6 how to do this. I'm just going to trust
7 him to do his job.

8 Q. Do you think that Mr. Klein
9 told the teachers who participated in this
10 survey, look, I know that the survey says
11 social media, e.g., Facebook, Instagram,
12 SnapChat, TikTok, YouTube, et cetera,
13 however, when you provide your estimate,
14 you should limit your response only to
15 Facebook, Instagram, SnapChat, TikTok, or
16 YouTube and include no other platforms?

17 MR. GRADEN: Objection.

18 THE WITNESS: I don't know
19 what --

20 BY MR. SANDOVAL-BUSHUR:

21 Q. So it's possible that Mr.
22 Klein did that in administering his survey?

23 A. I doubt it, but, again,
24 that's not -- I have no opinions about --
25 or I have no knowledge about what he

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1 precisely did or didn't do. I've read his
2 survey. I've read his report. I took
3 those results as given. They are input
4 into my report. So beyond that, like, as
5 far as I'm concerned, he's got a report.
6 He will be deposed. He will make all of
7 the defense of his survey that is
8 necessary. I'm not here to make it -- to
9 offer an opinion about what his survey
10 means, because I don't know what his survey
11 means, because I didn't write it. I've
12 spent almost no time really thinking about
13 it. I'm just, like, okay, this has
14 questions that I need for my report, great.

15 Q. So you are not offering the
16 opinion that the results of Mr. Klein's
17 survey are limited to time spent addressing
18 issues relating to Defendants' platforms as
19 distinct from all social media, correct?

20 MR. GRADEN: Objection.

21 THE WITNESS: Yeah, I'm making
22 no opinions, I'm offering no
23 opinions about what is or is not
24 included in Mr. Klein's survey.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. And so you are offering no
3 opinions about whether your damages
4 estimates are -- let me ask the question
5 again.

6 You are offering no opinions
7 about whether your damages estimates relate
8 to all social media or relate just to
9 Defendants' platforms --

10 MR. GRADEN: Objection. Form.

11 MR. SANDOVAL-BUSHUR: --
12 right?

13 MR. GRADEN: Objection. Form.

14 THE WITNESS: I'm -- as we
15 talked about at length a little
16 while ago, right, I take the time
17 loss estimates as given. I assume
18 they are accurate and reliable for
19 purposes of calculating damages in
20 this lawsuit.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. Do you know what you
23 calculated time loss relating to?

24 A. I don't understand your
25 question.

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1 Q. What did you calculate time
2 loss relating to in this case? Or you're
3 not sure because you're just -- you don't
4 know?

5 MR. GRADEN: I'll note for the
6 record that Mr. -- that Dr. Ward
7 was attempting to answer your
8 question before you asked the
9 second question.

10 THE WITNESS: You know, so I'm
11 using the affiants and Mr. Klein to
12 answer the question of how much or
13 what share of staff time was lost
14 due to student social media use.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. In answering that question,
17 you did not distinguish between time loss
18 to student use of Defendants' platforms as
19 distinct from time loss due to student use
20 of all social media, correct?

21 A. As we discussed, I make no
22 distinctions. I rely on them for the time
23 loss estimates. We just went through a
24 very long series of questions about that.

25 Q. And the answer is no, you did

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1 not distinguish, correct?

2 MR. GRADEN: Objection.

3 THE WITNESS: I've --

4 MR. GRADEN: Asked and
5 answered.

6 THE WITNESS: Yes, we've
7 covered that. I make no
8 distinctions for that.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. And you have not offered an
11 opinion on how your damages estimates would
12 change if they were limited only to time
13 spent addressing issues caused by
14 Defendants' platforms specifically as
15 distinct from all social media, correct?

16 MR. GRADEN: Objection.

17 THE WITNESS: I offer the one
18 calculation I have based on the
19 time loss estimates that I relied
20 on.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. Have you offered any opinion
23 on how your damages estimates would change
24 if they were limited only to time spent
25 addressing issues caused by Defendants'

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1 platforms as distinct from all social
2 media?

3 MR. GRADEN: Objection.

4 THE WITNESS: The math is very
5 straightforward. If there's some
6 sort of share, it's just you
7 multiply the numbers by whatever
8 share reduction.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. Well, Mr. Ward -- Dr. Ward,
11 sorry, you're not answering my question.
12 Can you point me to anywhere in your expert
13 reports in which you have offered an
14 opinion on how your damages estimates would
15 change if they were limited only to time
16 spent addressing issues caused by
17 Defendants' platforms as distinct from all
18 social media?

19 MR. GRADEN: Objection.

20 Foundation.

21 THE WITNESS: As I understand
22 it, that's what I've already done.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. How -- what is your basis
25 for -- for that opinion?

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1 A. As I understand it, the
2 affiants and Mr. Klein have estimated the
3 time loss for Defendants' social media
4 platforms.

5 Q. And what is the basis of that
6 understanding?

7 A. We covered that. Like, A,
8 they were tasked to provide me time loss
9 estimates in the context of this
10 litigation. I would be stunned if they
11 provided me an estimate that wasn't germane
12 to the litigation.

13 Q. I don't think you would be
14 stunned, Dr. Ward, because I think you know
15 exactly what questions Dr. Klein asked --

16 MR. GRADEN: Objection.

17 That's not a question.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. Dr. Ward, if Mr. Klein
20 performed a survey that asked teachers to
21 estimate time spent addressing issues
22 relating to all social media, not limited
23 just to Defendants, if that's what Mr.
24 Klein did, then your damages estimates are
25 estimates relating to time spent addressing

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1 issues relating to all social media, not
2 limited just to Defendants, correct?

3 MR. GRADEN: Objection. Form.
4 Incomplete hypothetical.

5 THE WITNESS: If you assume
6 that Mr. Klein's estimates are the
7 estimates for all social media,
8 then, yes, that's an input in my
9 calculation and that's what my
10 calculation would reflect.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. And in order for the court or
13 jury to decide whether that assumption is
14 correct, whether the Klein estimates are
15 estimates for all social media, you would
16 agree that they can look at the Klein
17 questions themselves and decide whether
18 those estimates include all social media or
19 are limited just to Defendants, correct?

20 A. I have no opinion about how
21 the court or jury makes its decisions.

22 Q. Well, if you wanted to know
23 whether the Klein estimates are estimates
24 for all social media or just for
25 Defendants, how would you answer the

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1 question?

2 A. I don't know, I would have to
3 think about it.

4 Q. Your job in this case that
5 you were paid over \$300,000 to do was to
6 multiply the results of the Klein survey
7 and the percentages in employee affidavits
8 by employee salary and benefit information,
9 correct?

10 A. Yes.

11 Q. And your testimony is that,
12 sitting here today, you do not know how you
13 would figure out what question exactly the
14 Klein survey was attempting to answer; is
15 that right?

16 MR. GRADEN: Objection.

17 THE WITNESS: Sorry, I don't
18 understand the question.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. Well, I'll move on. The
21 district employee affidavits and deposition
22 testimony that you relied on for estimates
23 of non-teacher damages included time spent
24 addressing student use of all social media,
25 not just Defendants' platforms, correct?

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1 MR. GRADEN: Objection.

2 Foundation.

3 THE WITNESS: I don't have any
4 basis to -- no, I don't know
5 exactly what they included. Again,
6 I've assumed and relied upon that
7 they provided me with the
8 appropriate information to use for
9 my calculations in the context of
10 this lawsuit.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. Did the district employee
13 affidavits and deposition testimony that
14 you relied on for your estimates of
15 non-teacher damages include time spent
16 addressing student use of all social media,
17 not just Defendants' platforms?

18 MR. GRADEN: Objection. Asked
19 and answered.

20 THE WITNESS: Yeah, I feel
21 like I just answered that.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. Well, it's a different
24 question.

25 A. I don't interpret it as a

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1 different question.

2 Q. Well --

3 A. You've asked me what I am
4 essentially -- what I am assuming about
5 what they know? I'm saying I am assuming
6 they provided me the information that I
7 need for this calculation.

8 Q. You do not know whether the
9 employee affidavits and deposition
10 testimony that you relied on provided
11 estimates relating to all social media or
12 just Defendants' platforms, correct?

13 MR. GRADEN: Objection.

14 THE WITNESS: I don't know
15 what each person included. I'm not
16 them.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. Did you see in any employee
19 affidavit a statement of this is the amount
20 of time that was spent addressing issues
21 relating specifically to Defendants'
22 platforms?

23 A. I have no recollection of
24 this precise language of all the
25 affidavits.

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1 Q. You have not offered an
2 opinion on how your estimates of
3 non-teacher time damages would change if
4 they were limited only to time spent
5 addressing issues caused by Defendants'
6 platforms as distinct from all social
7 media, correct?

8 MR. GRADEN: Objection to
9 form. Foundation.

10 THE WITNESS: I've provided an
11 estimate based on the information
12 that was provided to me under the
13 assumption that what was provided
14 is limited to Defendants'
15 platforms.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. And did you do anything at
18 all to see if your assumption that the
19 information that was provided to you that
20 was limited to Defendants' platforms was an
21 accurate assumption?

22 A. I trusted the people who
23 provided me with the affidavits. They are
24 knowledgeable staff. They are doing this
25 in the context of the lawsuit. They are

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1 signing it. This is sworn testimony.

2 That's good enough for me.

3 Q. Well, but, Dr. Ward, my
4 question is not did the people who signed
5 the affidavits think they were giving
6 truthful information. The question is what
7 information those people who signed the
8 affidavits were giving.

9 So did you do anything at all
10 to see if your assumption that the
11 information that was provided to you in the
12 employee affidavits that was limited to
13 Defendants' platforms was an accurate
14 assumption?

15 MR. GRADEN: Objection. Asked
16 and answered.

17 THE WITNESS: It may have come
18 up in some of the depositions, but
19 other than what's in their
20 testimony, no, I'm relying on them.
21 I'm relying on them to -- these are
22 questions that you are welcome to
23 ask them, but I have no basis or
24 concern that they haven't provided
25 me with the appropriate thing to

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1 use for calculating damages in this
2 lawsuit.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. Is it your understanding that
5 the people who provided the affidavits that
6 you rely on for purposes of your damages
7 calculations understood that they were
8 giving estimates that would be used for the
9 purposes of calculating damages?

10 A. Sorry, say that again.

11 Q. Is it your understanding that
12 the people, the school employees, who
13 provided the affidavits that you rely on
14 understood that they were giving estimates
15 that would be used for purposes of
16 calculating damages?

17 A. I don't know what they
18 understood.

19 Q. So you have no idea of what
20 the people who provided the employee
21 affidavits under that they were doing when
22 they provided the affidavits, correct?

23 MR. GRADEN: Objection.

24 THE WITNESS: I'm not them. I
25 don't know what they understood or

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1 didn't understand. I understand
2 how I used it.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. Yeah. Okay. Your estimated
5 damages include damages relating to time
6 spent by teachers and other school staff
7 addressing the effects of content, text,
8 photos, videos that are posted by third
9 parties on social media platforms, correct?

10 MR. GRADEN: Objection to
11 form. Foundation.

12 THE WITNESS: What was the
13 question, I'm sorry?

14 BY MR. SANDOVAL-BUSHUR:

15 Q. Do your damages estimates
16 include damages relating to time spent by
17 teachers and other school staff addressing
18 the effects of content, that is, text,
19 photos or videos posted by third parties on
20 social media platforms?

21 MR. GRADEN: Objection. Form.
22 Foundation.

23 THE WITNESS: I have no
24 opinion about that. I don't --
25 again, that's a time loss question,

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1 right, so that's -- I'm taking the
2 affiant affidavits and Mr. Klein's
3 survey and I'm applying value to
4 it. I don't have any opinion about
5 what exactly they included or
6 didn't include. I assume that it
7 is appropriate for my purposes.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. And what does that mean for
10 something to be appropriate for your
11 purposes?

12 A. It provides the time loss to
13 be used to calculate damages in this
14 lawsuit.

15 Q. So for your purposes, if it
16 provided a time loss, it provided you a
17 percentage, that was sufficient?

18 A. Again, I'm relying on them to
19 provide the appropriate loss of time for
20 this lawsuit. I don't -- I have no basis
21 to evaluate what they did and didn't
22 include, whether or not it's accurate or
23 not, right, they're the experts. They're
24 the people in the positions. As we talked
25 about, I assume that it is accurate and

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1 reliable for my purposes.

2 Q. If teachers and non-teachers
3 included in their time estimates time spent
4 addressing the effects of content, that is,
5 texts, photos, or videos that were posted
6 by third parties on social media platforms,
7 that time would be included in your damages
8 estimate, correct?

9 MR. GRADEN: Objection. Form.

10 THE WITNESS: I mean, if
11 people include something in their
12 time loss estimate that the time
13 loss estimate that I relied on, by
14 definition, yes, my time loss -- my
15 calculation includes it.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. And you did not take any
18 steps on your own to attempt to eliminate
19 from any time estimates time spent
20 addressing content posted on social media
21 by third parties when you were calculating
22 your damages estimates, correct?

23 A. It was not part of --

24 MR. GRADEN: Objection.

25 Foundation.

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1 THE WITNESS: That was not
2 part of my assignment.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. And you are not aware of any
5 data that would allow you to quantify what
6 portion of damages you estimated relate to
7 time spent by teachers and other school
8 staff addressing the effects of content
9 posted by third parties on social media
10 platforms?

11 MR. GRADEN: Objection to
12 form. Foundation.

13 THE WITNESS: Not part of my
14 assignment.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. And you're not aware of any
17 such data?

18 A. I'm not aware of any such
19 data.

20 Q. If two students are using a
21 social media platform during class to
22 message each other about plans to hang out
23 after school and the teacher takes time to
24 reprimand the students for messaging one
25 another during class, is that teacher time

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1 included in your damages estimate?

2 A. Again, I take the estimates
3 from others. I don't know any specific
4 examples. I assume that the others provide
5 me with whatever is appropriate.

6 Q. If teachers and non-teachers
7 included in their time estimates time spent
8 addressing students' use of social media
9 platforms during class to message each
10 other, that time is included in your
11 damages estimate, correct?

12 MR. GRADEN: Objection.

13 THE WITNESS: So if you assume
14 that it's included then, yes, it's
15 included.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. And you did not attempt to
18 eliminate from your damages calculations
19 time spent addressing student use of social
20 media platforms during class to send
21 messages, correct?

22 MR. GRADEN: Objection.

23 Foundation.

24 THE WITNESS: That was not
25 part of my assignment.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. If teachers and non-teachers
3 included in their time estimates time spent
4 addressing students who post videos of
5 physical fights on social media platforms,
6 is that time included in your damages
7 estimate?

8 MR. GRADEN: Objection.

9 Foundation.

10 THE WITNESS: Sorry, what was
11 the first part of that question, if
12 you assume it?

13 BY MR. SANDOVAL-BUSHUR:

14 Q. If teachers and non-teachers
15 included in their time estimates time spent
16 addressing students who post videos of
17 physical fights on social media, is that
18 included in your damage estimate?

19 MR. GRADEN: Same objection.

20 THE WITNESS: If you assume
21 that it's in there, it's in there.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. And you did not attempt to
24 eliminate from your damages calculations
25 time spent addressing students who post

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1 videos of physical fights on social media,
2 correct?

3 MR. GRADEN: Objection.
4 Foundation.

5 THE WITNESS: That was not
6 part of my assignment.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. Your estimated damages
9 include damages relating to time spent by
10 teachers and other school staff addressing
11 the effects of all features of social media
12 platforms, correct?

13 MR. GRADEN: Objection.

14 THE WITNESS: Sorry, say that
15 again.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. Your estimated damages
18 include damages relating to time spent by
19 teachers and other school staff addressing
20 the effects of all features of social media
21 platforms, correct?

22 MR. GRADEN: Objection. Form.
23 Foundation.

24 THE WITNESS: Again, I
25 don't -- that was not part of my

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1 assignment. That's part of the
2 time loss estimate. I don't know
3 what they include or did not
4 include.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. If the autoplay feature --
7 are you familiar with autoplay as a feature
8 on social media?

9 A. Is that when it just starts
10 playing, like --

11 Q. If one video ends, another
12 video begins playing.

13 A. Okay. Okay. Sure.

14 Q. If the autoplay feature of a
15 Defendants' platform is the reason why a
16 teacher or non-teacher reports spending
17 time addressing student use of social
18 media, your damages estimate includes that
19 time, correct?

20 MR. GRADEN: Objection.

21 THE WITNESS: If you assume
22 that it's included in the time loss
23 estimate, then my damage includes
24 it.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. And you have not taken any
3 steps to exclude from your damages
4 estimates time spent by teachers or
5 non-teachers that is caused by the autoplay
6 feature of any social media platform,
7 correct?

8 MR. GRADEN: Objection.
9 Foundation.

10 THE WITNESS: That was not
11 part of my assignment.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. And you didn't do that?

14 A. Didn't do it, it wasn't my
15 assignment.

16 Q. If the algorithms on social
17 media were the reason that teachers or
18 non-teachers reported spending time
19 addressing student use of social media,
20 that time is included in your damages
21 estimate, correct?

22 A. If you assume that it's
23 included, then it's included.

24 Q. You have not taken any steps
25 to exclude from your damages estimates time

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1 spent by teachers or non-teachers that was
2 caused by the algorithms of social media,
3 correct?

4 MR. GRADEN: Objection. Form.
5 Foundation.

6 THE WITNESS: It was not part
7 of my assignment, so I didn't do
8 it.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. And you have not taken any
11 steps to exclude from your damages
12 estimates any time spent by teachers or
13 non-teachers that was caused by any feature
14 of any social media platform, correct?

15 MR. GRADEN: Objection. Form.
16 Foundation.

17 THE WITNESS: No, I have not.
18 Not part of my assignment.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. And you have not estimated
21 damages specifically attributable to any
22 Defendants' facilitation, promotion,
23 development or participation in any
24 particular online challenge, correct?

25 MR. GRADEN: Objection. Form.

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1 Foundation.

2 THE WITNESS: Not part of my
3 assignment.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. And you didn't do it?

6 A. So I didn't do it.

7 Q. And you have not estimated
8 damages specifically attributable to any
9 Defendants' facilitation, promotion,
10 development, or participation in any
11 particular filter or overlay, correct?

12 MR. GRADEN: Objection. Form.
13 Foundation.

14 THE WITNESS: It was not part
15 of my assignment, so I didn't do
16 it.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. If teachers and non-teachers
19 included in their time estimates time spent
20 addressing the effects of use of social
21 media platforms on school-issued devices,
22 then that time is included in your damages
23 estimates, correct?

24 A. If you assume it's included,
25 it's included.

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1 Q. And you did not take any
2 steps to eliminate from your damages
3 calculations any time that was spent
4 addressing the effects of the use of social
5 media platforms on school-issued devices,
6 correct?

7 MR. GRADEN: Objection.
8 Foundation.

9 THE WITNESS: Not part of my
10 assignment, so I didn't do it.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. And the fact that a school
13 district could have used but did not use
14 software to block students from accessing
15 social media platforms on their
16 school-issued devices does not affect your
17 damages calculations, correct?

18 MR. GRADEN: Objection.
19 Foundation.

20 THE WITNESS: What is that?

21 BY MR. SANDOVAL-BUSHUR:

22 Q. The possibility that a school
23 district could have but did not use
24 software to block students from assessing
25 social media platforms on their

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1 school-issued devices does not affect your
2 damages calculations, correct?

3 MR. GRADEN: Objection.
4 Foundation.

5 THE WITNESS: That's not
6 included in my assignment of my
7 calculations.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. Are your estimated damages
10 limited to time spent by teachers and other
11 school staff addressing issues relating to
12 students who are addicted to social media?

13 A. Sorry, say that again.

14 Q. Are your estimated damages
15 limited to time spent by teachers and other
16 school staff addressing issues relating to
17 students who are addicted to social media?

18 A. My calculations include only
19 what the people who calculated time loss
20 include. I don't know if it includes that
21 or not.

22 MR. GRADEN: We have been
23 going about over an hour, are you
24 about ready to break or --

25 MR. SANDOVAL-BUSHUR: We can

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1 go about another five minutes.

2 MR. GRADEN: That's fine. As
3 long as it's fine.

4 THE WITNESS: Yeah, no, five
5 minutes is great.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. If teachers and non-teachers
8 included in their time estimates time spent
9 addressing issues relating to students who
10 are not addicted to social media, that time
11 is included in your damages calculations,
12 correct?

13 MR. GRADEN: Objection.
14 Foundation.

15 THE WITNESS: If you assume
16 they included it, it's included.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. And you did not attempt to
19 eliminate time spent addressing issues
20 relating to students who are not addicted
21 to social media from your damages
22 estimates, correct?

23 MR. GRADEN: Objection.
24 Foundation.

25 THE WITNESS: Not part of my

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1 assignment, didn't do it.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. And you did not attempt to
4 eliminate time spent addressing issues
5 relating to students who are not addicted
6 to any of Defendants' platforms
7 specifically from your damages estimates,
8 correct?

9 MR. GRADEN: Objection.

10 THE WITNESS: Sorry, say it
11 again.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. You did not attempt to
14 eliminate time spent addressing issues
15 relating to students who are not addicted
16 to any of Defendants' platforms from your
17 damages estimates, correct?

18 A. Not part of my --

19 MR. GRADEN: Objection.
20 Foundation.

21 THE WITNESS: Not part of my
22 assignment, didn't do it.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. And you are not aware of any
25 data that would allow you to quantify what

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1 portion of the damages you estimate relate
2 to time spent addressing issues for
3 students who are not addicted to social
4 media, correct?

5 A. I have spent zero time
6 looking for such data, so I have no idea if
7 it exists.

8 Q. If someone wanted to know how
9 much in damages a school district incurred
10 because of students who were addicted to
11 social media only, the damages estimates
12 that you have offered in this case would
13 not answer that question, correct?

14 MR. GRADEN: Objection.
15 Foundation.

16 THE WITNESS: Only if the time
17 loss estimates are specific to
18 addicted only.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. And they're not, correct?

21 MR. GRADEN: Objection.

22 THE WITNESS: Again, I don't
23 know exactly what they include,
24 because you would have to ask them,
25 but --

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. I mean, again, you've read
3 the Klein teacher time survey, right?

4 A. And I don't -- again, I
5 don't -- I can't speak to what is exactly
6 included or not. You're throwing out a
7 million different buckets of things, but I
8 think that one you tried to limit in some
9 way and I'm, like, well, I don't know, so I
10 don't know. But I don't think -- it's not
11 part of, whatever it is, it's ultimately
12 not part of my assignment.

13 Q. Did you see anything in the
14 Klein survey that limited the information
15 sought from teachers to time spent in
16 connection with students who are addicted
17 to social media?

18 A. Nothing that I know of that
19 limited it to that, but it doesn't mean it
20 could not only reflect that.

21 Q. Did you see anything in any
22 of the affidavits or deposition testimony
23 that you reviewed of non-teachers provided
24 time estimates that limited their time
25 estimates to time spent in connection with

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1 students who are addicted to social media?

2 A. Not that I'm aware of.

3 Q. And, similarly, if any of the
4 estimates that you relied on included time
5 spent addressing use of social media by
6 students who do not compulsively use social
7 media, that time is included in your
8 damages estimates, correct?

9 A. I think that's an if you
10 assume it, it's in there.

11 Q. So the answer is, if you
12 assume that the estimates that you relied
13 on were not limited to addressing use of
14 social media by students who compulsively
15 use social media, then your damages
16 estimates are not limited to addressing use
17 of social media by students who
18 compulsively use social media, correct?

19 A. Sorry, we've got too many --

20 Q. Yeah, I know it's
21 complicated --

22 A. -- moving parts here.

23 Q. -- I apologize. I want you
24 to assume that the time estimates that you
25 rely on are not limited to addressing use

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1 of social media by students who
2 compulsively use social media, okay?

3 A. So they are not limited to
4 just compulsive use?

5 Q. Correct.

6 A. Okay.

7 Q. If that's the case, then your
8 damages estimates are similarly not limited
9 to just compulsive use, correct?

10 A. Correct, if you assume it,
11 that's what it is.

12 Q. And if someone wanted to know
13 how much in damages a school district
14 incurred because of only compulsive use of
15 social media by students, the damages
16 estimates that you have offered in this
17 case would not answer that question,
18 correct?

19 A. If you assume that, yes.

20 MR. SANDOVAL-BUSHUR: We can
21 take a break.

22 THE VIDEOGRAPHER: Going off
23 video record 11:57 a.m.

24 - - - - -

25 (A recess was taken at this time.)

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1 - - - - -

2 THE VIDEOGRAPHER: Back on
3 video record 12:46 p.m.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. Dr. Ward, your estimated
6 damages are not limited to time spent by
7 teachers and other school staff addressing
8 issues relating to students who have mental
9 health problems, correct?

10 MR. GRADEN: Objection.
11 Foundation.

12 THE WITNESS: No, as we've
13 discussed, they include all of the
14 things that were included by the
15 affiants and Mr. Klein's survey.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. And so if the employees who
18 submitted affidavits and the teachers
19 responding to the survey did not limit
20 their time estimates to time spent
21 addressing issues relating to students with
22 mental health problems, then your damages
23 estimates in turn are not limited to time
24 spent relating to students with mental
25 health problems, correct?

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1 MR. GRADEN: Objection. Form.

2 THE WITNESS: Yes, if you
3 assume that they did not limit it,
4 which I don't believe they did,
5 then my damages would only reflect
6 I think that's where -- if they did
7 or didn't limit it, I can't
8 remember if you have a negative in
9 there or not, my damages either do
10 or do not include it.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. And you, as part of your work
13 in this case, have not reviewed any data
14 about how many students in any school
15 district have mental health problems,
16 correct?

17 A. Not that I recall, no.

18 Q. And you have not, as part of
19 your work in this case, reviewed any data
20 on how many students in any school district
21 have mental health problems specifically
22 allegedly caused by social media, correct?

23 A. No, I have reviewed such
24 data.

25 Q. And you did not attempt to

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1 eliminate from your damages estimates time
2 spent addressing issues relating to
3 students who do not have mental health
4 problems, correct?

5 A. I did -- I'm sorry.

6 Q. I can ask it differently.
7 Did you attempt to eliminate from your
8 damages estimates time spent addressing
9 issues relating to students who do not have
10 mental health problems?

11 A. No, I did not.

12 Q. Teachers are salaried
13 workers, not hourly workers, correct?

14 A. Generally, yes.

15 Q. In the six bellwether
16 districts, teachers are salaried workers,
17 not hourly workers, correct?

18 A. I believe so, there may be a
19 handful that were paid hourly, but,
20 typically, no, they are salaried.

21 Q. The amount of time that
22 teachers spend addressing school -- student
23 use of social media does not affect how
24 much the school district pays the teacher,
25 correct?

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1 A. I don't assume that it does,
2 no.

3 Q. And you're not aware of any
4 information that would suggest that the
5 amount of time that teachers spend
6 addressing student use of social media
7 affects how much the school district pays
8 the teacher, correct?

9 A. Yes. Well, I assume that it
10 doesn't change the contracted number of
11 hours or the contracted wages.

12 Q. The non-teacher employees for
13 whom you calculated damages are salaried
14 workers, not hourly workers, correct?

15 A. Generally, as far as I can
16 recall, yeah.

17 Q. The amount of time that a
18 non-teacher employee spends addressing
19 student use of social media does not affect
20 how much the school district pays that
21 employee, correct?

22 A. As far as I know, yes.

23 Q. If all social media platforms
24 disappeared tomorrow, school district
25 employee salaries in the bellwether school

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1 districts presumably would not be affected,
2 correct?

3 MR. GRADEN: Objection.
4 Foundation.

5 THE WITNESS: I assume so, but
6 I don't know that for sure.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. You are not opining that
9 because of social media a school district
10 had to pay teachers more than the school
11 district would have paid teachers if social
12 media did not exist, correct?

13 A. Correct. I'm not assuming
14 that salaries went up by some amount
15 because of social media.

16 Q. You are not opining that
17 because of Defendants' platforms
18 specifically a school district had to pay
19 teachers more than the school district
20 would have paid teachers if Defendants'
21 platforms did not exist, correct?

22 A. Yeah, no, I'm not assuming
23 anything changed with respect to
24 Defendants' platforms causing wages to go
25 up.

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1 Q. And just so that I'm sure we
2 have a clean answer for the record, are you
3 opining that because of Defendants'
4 platforms specifically any school district
5 had to pay teachers more than they would
6 have paid teachers if Defendants' platforms
7 did not exist?

8 A. It's the same answer, so, no,
9 there is -- I'm making no assumptions about
10 the conduct at issue in this matter
11 impacting the level of wages paid.

12 Q. To any employee in any
13 district?

14 A. To any employee in any
15 district.

16 Q. You are not opining that any
17 school district hired more teacher or
18 non-teacher staff because of social media,
19 correct?

20 A. That's not part of my
21 opinion, no.

22 Q. You are not opining that any
23 school district hired more teachers or
24 non-teacher staff because of Defendants'
25 platforms, correct?

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1 A. It's the same answer.

2 Q. So that answer is no?

3 A. No, I'm not making any
4 assumptions that the at-issue conduct
5 impacted the number of staff in my
6 calculations.

7 Q. You are not opining that
8 student use of social media caused school
9 districts to spend more on any
10 out-of-pocket costs, correct?

11 A. That's not part of my
12 opinion, no.

13 Q. Your damages estimates are an
14 estimate of opportunity costs, not
15 out-of-pocket costs, correct?

16 A. Yes, I'm -- yes.

17 Q. And what is the difference
18 between opportunity costs and out-of-pocket
19 costs?

20 A. Well, I think you just went
21 through it, right? So out-of-pocket costs
22 would be, oh, we spent money that we
23 otherwise wouldn't have spent, right? So
24 we're, you know, now if you're saying, oh,
25 we spent more than we would have otherwise,

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1 and then in my conception, I'm saying,
2 well, look, you know, with opportunity
3 costs, yeah, you're paying the teacher what
4 you would have paid them anyway, but you're
5 diverting their time from what it would
6 have been used for something else and we
7 have to put a value on that time and we
8 call that value the opportunity cost.

9 Q. One of the job
10 responsibilities of a teacher is to address
11 student misbehavior in class, correct?

12 A. I assume so.

13 Q. And you were at one point in
14 your life a student in a class, correct?

15 A. I went to many years of
16 school.

17 Q. And I'm sure you experienced
18 that something that teachers do is to
19 address student misbehavior in class,
20 correct?

21 A. Sometimes, yes.

22 Q. And addressing student
23 misbehavior in class has been a job
24 responsibility of teachers for decades,
25 correct?

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1 MR. GRADEN: Objection.

2 Scope.

3 THE WITNESS: I assume so.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. For decades, part of a
6 teacher's job responsibility has included
7 addressing students who were misbehaving in
8 class by talking to each other when they
9 were not supposed to, correct?

10 A. I mean, I don't know the
11 specifics of exactly, but, you know,
12 presumably teachers do that and they have
13 done so for some time.

14 Q. For decades, part of a
15 teacher's job responsibility has included
16 addressing students who were misbehaving by
17 passing notes to one another, correct?

18 MR. GRADEN: Objection.

19 Scope.

20 THE WITNESS: Again, you know,
21 I don't know the specifics of
22 exactly what teachers do, but to
23 the extent passing notes was a
24 problem for a teacher, they may
25 have used it.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. So, I mean, do you just know
3 as a person who is in the world, went to
4 school, that part of what teachers do is
5 address students who are misbehaving in
6 class by passing notes and that's something
7 teachers have done for decades?

8 MR. GRADEN: Objection. Form.

9 THE WITNESS: Yeah, to the
10 extent that it happened while I was
11 in school, sure, maybe that
12 happened. I think that probably
13 happened at some point.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. For decades, part of a
16 teacher's job responsibility has included
17 addressing students who are misbehaving in
18 class by reading material that they're not
19 supposed to be reading in class, correct?

20 MR. GRADEN: Objection.

21 Scope.

22 THE WITNESS: Again, you know,
23 I can only base it on what I know
24 from my own experience and, yeah,
25 maybe they would have done that.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Do you not have any
3 understanding of what a teacher's job
4 responsibilities do and do not entail
5 outside of your own personal experience as
6 a student?

7 A. I don't know to this level of
8 specificity. So, yes, when you talked
9 about does it include addressing student
10 misbehavior, sure, you know, part of job
11 responsibilities is maintaining classroom
12 order. The specifics of what a particular
13 teacher chooses to include in that or a
14 what a teacher -- that I don't know. I can
15 only speak as to what I saw and, you know,
16 experienced, right? So I can speak at a
17 high level, but I probably can't speak at a
18 very specific level.

19 Q. And so for purposes of
20 offering opinions in this case, you have
21 not studied at any specific level how
22 teachers spend their time in the course of
23 a school day; is that right?

24 MR. GRADEN: Objection.

25 Vague.

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1 THE WITNESS: Yeah, not beyond
2 just a basic understanding of what
3 teachers do. I do not have some
4 sort of granular database of every
5 action that teachers may or may not
6 take.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. For decades, part of a
9 teacher's job responsibility has included
10 addressing students who are misbehaving by
11 making fun of other students, correct?

12 MR. GRADEN: Another objection
13 to scope here.

14 THE WITNESS: It's the same
15 answer. Like, to the extent that
16 it's part of what they consider as
17 part of maintaining classroom order
18 or whatever bucket you want to
19 label it in, I would assume that
20 it's included, but I don't know for
21 decades or whether it's explicitly
22 included or implicitly included, I
23 just don't know.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. For decades, part of a

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1 teacher's job responsibility has included
2 addressing students who were misbehaving by
3 bullying other students, correct?

4 MR. GRADEN: Objection. Asked
5 and answered.

6 THE WITNESS: It's the same
7 basic thing, yes, I assume that
8 there's probably some degree of
9 addressing bullying, but I don't
10 know any specifics.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. For decades, part of a
13 teacher's job responsibility has included
14 addressing students who brought distracting
15 items to school and used them in class,
16 like toys, a gun, et cetera?

17 MR. GRADEN: Objection. Asked
18 and answered multiple times.

19 THE WITNESS: Same exact
20 answer, I don't know the specifics,
21 but I assume that teachers have
22 some part of their job, which is
23 maintaining classroom order,
24 protecting the learning
25 environment, whatever you want to

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1 call it.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Including by addressing
4 students who are misbehaving in connection
5 with bringing distracting items to school,
6 correct?

7 A. That could be included.

8 Q. When a school makes a
9 decision to hire a teacher to teach a
10 class, the school understands that some of
11 the time that the teacher is teaching class
12 will be spent addressing student
13 misbehavior, correct?

14 MR. GRADEN: Objection.
15 Foundation.

16 THE WITNESS: Perhaps.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. Do you know?

19 A. I don't know the specifics
20 of, you know, what percentage or whether
21 they do -- what they exactly include or do
22 not include. Yeah, that's not -- again, I
23 have a general understanding, but if you're
24 asking me if when they specifically hire
25 them do they have some, like, will you do

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1 this exact thing, I don't know that.

2 Q. Do you think it's possible
3 that a -- do you think it's possible that
4 when a school makes the decision to hire a
5 teacher to teach a class, the school does
6 not understand that some of the time that
7 the teacher is teaching the class will be
8 spent addressing student misbehavior?

9 MR. GRADEN: Again, scope.

10 THE WITNESS: Do I think that
11 it's possible that they think that
12 no time would be spent addressing
13 student misbehavior? I don't know
14 for sure, but there's probably at
15 least some assumption that there
16 would be addressing of student
17 misbehavior, but I don't know, you
18 know, that's not -- it's not
19 something I'm here to opine on.

20 BY MR. SANDOVAL-BUSHUR:

21 Q. A school does not lose the
22 time that a teacher spends addressing
23 student misbehavior, the school receives
24 exactly what it paid the teacher to do,
25 correct?

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1 MR. GRADEN: Objection.

2 Foundation. Calls for a legal
3 conclusion.

4 THE WITNESS: What do you mean
5 the school doesn't lose time?

6 BY MR. SANDOVAL-BUSHUR:

7 Q. Does a school lose the value
8 of the time that a teacher spends
9 addressing student misbehavior?

10 A. I mean, it's forgone for some
11 other purpose.

12 Q. Does the school --

13 A. There's an opportunity cost
14 associated with it.

15 Q. Sure. And there's
16 opportunity costs associated with literally
17 any activity that a teacher does in the
18 course of a school day, correct?

19 A. That is correct.

20 Q. Does a school lose the value
21 of the time that a teacher spends
22 addressing student misbehavior?

23 A. It incurs an opportunity
24 cost.

25 Q. Does the school still receive

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1 the value of the time that the teacher
2 spends addressing student misbehavior?

3 MR. GRADEN: Objection.
4 Vague.

5 THE WITNESS: Does the school
6 still receive the value of the
7 time? I mean, they receive the --
8 I mean, the teacher spent their
9 time doing that, so they get
10 whatever comes out of them doing
11 that.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. The school gets the value of
14 the teacher spending time addressing
15 student misbehavior, correct?

16 MR. GRADEN: Objection.
17 Vague.

18 THE WITNESS: Does the
19 school -- who gets the -- I'm not
20 sure what the value of -- you know,
21 there's, there is a -- to the
22 extent that there's output
23 associated with the input of time,
24 they -- I'm sure the school
25 receives -- I'm not sure who

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1 receives the output, but there is
2 output that is produced.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. For purposes of your damages
5 opinions, you did not consider the value of
6 any teacher time that a school district
7 receives from that teacher time; is that
8 correct?

9 MR. GRADEN: Objection. You
10 can answer, if you understand.

11 THE WITNESS: Yeah, I'm not
12 focused on output. I'm focused on
13 inputs.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. So is it -- or let me ask
16 that question differently. In calculating
17 opportunity costs, did you consider the
18 value of the time that a teacher spends on
19 any activity to the school district?

20 A. Sorry, say that again.

21 Q. Does the school district
22 receive value when a teacher spends time
23 doing something in the course of the school
24 day?

25 A. Yeah, you know, school

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1 districts are just kind of weird, right?
2 You know, because they produce output, but
3 it's not clear that the school district
4 receives the value of that output. It's
5 not a business that's selling that output
6 for profit. So it doesn't make sense to me
7 the way you're phrasing it.

8 Q. So if a school district
9 employee's time during the workday is
10 diverted from one activity to another, the
11 school district is not the entity that
12 loses any value associated with that
13 diversion; is that correct?

14 MR. GRADEN: Objection.

15 THE WITNESS: It incurs a
16 cost. Right, so the school
17 district incurs the opportunity
18 cost of the time being diverted.
19 Now, how do you value that time,
20 right? In this case, we value it
21 on the input side and we say, well,
22 the school district paid for that
23 time, it paid this amount for it,
24 right, so what was the cost of
25 diverting from one thing to another

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1 was the value of that time. Right?
2 So it's the cost to the district
3 that's ultimately at issue for me.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. For your methodology of
6 calculating opportunity costs, you did not
7 consider and it was not part of your
8 methodology to consider what the value was
9 of any time that was lost because school
10 staff was addressing social media-related
11 issues?

12 A. Are you trying to say output
13 instead of value or the value of output?
14 No, my understanding is that the school
15 districts are not seeking to recover the
16 value of lost output. They're seeking to
17 recover the cost of the diverted input.

18 Q. So when you refer to
19 opportunity costs, what you are referring
20 to is simply the amount that the district
21 paid an employee proportional to the amount
22 of time that the employee spent addressing
23 issues relating to social media; is that
24 right?

25 A. I think that's correct, yes.

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1 Q. And you have not as part of
2 your work in this case attempted to
3 calculate the value of any activity by any
4 school district staff that was forgone
5 because the school district staff instead
6 spent time addressing student use of social
7 media, correct?

8 A. I value the time at the wage,
9 I'm not trying to figure out what the
10 output loss and put a value on that.
11 That's the standard approach in costing
12 things in education.

13 Q. When a teacher spends time
14 during the day addressing student
15 misbehavior, the school receives from the
16 teacher what the school paid the teacher to
17 do, correct?

18 MR. GRADEN: Objection.
19 Foundation.

20 THE WITNESS: Sorry, say that
21 again.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. One of the things that
24 schools pay teachers to do is to address
25 student misbehavior, correct?

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1 A. Okay. We've been over that,
2 yeah, to some degree.

3 Q. And so when a teacher spends
4 time addressing student misbehavior, the
5 school is receiving, in exchange for paying
6 the teacher, the labor of the teacher doing
7 what the school district paid the teacher
8 to do, correct?

9 MR. GRADEN: Objection.

10 THE WITNESS: I mean, they
11 paid the teacher for that time, so,
12 like, but again, this -- the school
13 district recovering the value,
14 that's where I'm losing you. I
15 said that because school districts
16 produce output, but they don't
17 recover the value of that output.
18 So, yes, the school district paid
19 the teacher for that time, right?
20 So it incurred a cost associated
21 with that time. All of the
22 activities that the teachers do,
23 the school district is incurring
24 costs.

25 The question for this matter

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1 is, okay, well, there's some
2 share of that time that could
3 have been put to some other use
4 had the at-issue conduct not been
5 present. And in that case, so
6 it's what the cost of dealing
7 with this thing and so the way
8 you do that in education is you
9 say, look, these are the inputs,
10 this is the price of those
11 inputs, in our case, the wages
12 and benefits, so you say, okay,
13 well, here's how much time,
14 here's the wages and benefits,
15 here is the cost and that is my
16 understanding of what is at issue
17 in this case. That's what the
18 Plaintiffs are seeking to recover
19 is the cost of the time, what
20 they essentially expended during
21 the period where their time was
22 diverted, because there was an
23 opportunity, there was a cost to
24 doing this stuff to the district
25 that they wouldn't have otherwise

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1 have had to incur.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Calculating the value of any
4 opportunity that was forgone was not part
5 of your methodology in this case, correct?

6 A. The opportunity, yeah,
7 that's -- my methodology is, this is an
8 opportunity cost methodology, right? It's
9 just in education specifically, right, and
10 it can be applied in other places, but in
11 education specifically, the methodology is
12 what's called the ingredients approach.
13 You say that you want to understand what
14 the cost of something is, right, this
15 intervention, that, you know, issue, you
16 would say, okay, well, what is the time or
17 other resources involved in it, what are
18 the ingredients, right, and then what are
19 the values of those ingredients? And when
20 it comes to personnel time, you know, you
21 say what's the value of teacher time?
22 Well, the standard is, okay, we're going to
23 use wages and benefits. We're not going to
24 try and figure out -- oh, they produce too
25 many things, too many things we don't even

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1 know the value of, to be honest. So the
2 standard is, the practical approach to
3 doing this is to say, in practice, we find
4 the time, whatever the intervention is, and
5 we multiply that time by the wages and
6 benefits and that's when we go to the
7 district and say, well, what does this
8 cost? This is what this is costing you,
9 this intervention, right? What is it going
10 to cost you? It's going to cost this
11 amount. And what we're doing is here just
12 directly analogous to that and the issue is
13 at the time in the bucket of addressing
14 at-issue conduct in this matter.

15 Q. Was calculating the value of
16 any opportunity that was forgone part of
17 your methodology in this case?

18 A. I don't --

19 MR. GRADEN: Objection. Asked
20 and answered.

21 THE WITNESS: We're not
22 communicating on value, right?
23 Like, I'm valuing the time, so the
24 opportunity of that time, the
25 opportunity cost of that time, yes,

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1 I'm valuing that time. I'm valuing
2 it at the wage. If you're asking
3 did I value the forgone output of
4 that time, no, I'm not doing that.
5 That's not the standard approach
6 when it comes to doing costing in
7 education.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. You are not offering the
10 opinion that teachers spent more time
11 addressing student misbehavior in a world
12 with social media than they would in a
13 world without social media, correct?

14 A. No, I'm making -- I'm only
15 offering opinions about the estimates of
16 time loss that I was provided related to
17 at-issue conduct by the affiants and/or the
18 survey.

19 Q. You are not offering the
20 opinion that teachers spent more time
21 addressing student misbehavior because of
22 social media, correct?

23 A. I'm doing nothing related to
24 causality in my analysis.

25 Q. So the answer is, correct?

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1 A. Yes, correct, I'm not doing
2 anything related to causality.

3 Q. You are not offering the
4 opinion that teachers spent more time
5 addressing bullying because of social
6 media, correct?

7 MR. GRADEN: Objection. Asked
8 and answered.

9 THE WITNESS: No, I am not
10 offering any kind of causal opinion
11 related to any output.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. For decades, teachers have
14 had to deal with students who were tired in
15 class because they stayed up too late,
16 correct?

17 MR. GRADEN: Objection.
18 Scope.

19 THE WITNESS: I have no idea.
20 Certainly, there are probably kids
21 who show up to school tired
22 sometimes, but for decades, I have
23 no idea. The frequency, I have no
24 idea.
25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. For decades, students have
3 been tired in class because they stayed up
4 too late watching TV or playing video
5 games, correct?

6 MR. GRADEN: Objection. Form.

7 THE WITNESS: I have done no
8 analysis of the sources of student
9 tiredness over time.

10 BY MR. SANDOVAL-BUSHUR:

11 Q. When a school makes the
12 decision to hire a teacher to teach a
13 class, the school understands that some of
14 the time that the teacher is teaching the
15 class will be spent dealing with students
16 who are tired because they stayed up too
17 late, correct?

18 MR. GRADEN: Objection.

19 Scope.

20 THE WITNESS: Again, I don't
21 know what teachers or schools are
22 assuming about whether or not
23 teachers are spending time dealing
24 with tiredness in class.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. You just don't know?

3 A. No, I don't know.

4 Q. You are not offering the
5 opinion that teachers spend more time
6 dealing with students who are tired in
7 class because they stayed up too late in a
8 world with social media than they would
9 have spent in a world without social media,
10 correct?

11 MR. GRADEN: Objection. Asked
12 and answered.

13 THE WITNESS: I'm offering no
14 opinions related to the causality
15 of social media on any outcome or a
16 task of teacher time in schools.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. So, correct?

19 A. Correct.

20 Q. You are not offering the
21 opinion that teachers spent more time
22 dealing with students who are tired in
23 class because they stayed up late because
24 of social media, correct?

25 MR. GRADEN: Again, asked and

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1 answered.

2 THE WITNESS: This is not the
3 same question I just answered?

4 BY MR. SANDOVAL-BUSHUR:

5 Q. If you think it's a simple
6 correct, you're free to say it.

7 A. Okay. Correct, again, that's
8 a causal question. I did no causal
9 analysis.

10 Q. For decades, teachers have
11 had to deal with student conflicts because
12 of things that happened outside of class,
13 correct?

14 MR. GRADEN: Objection.
15 Scope.

16 THE WITNESS: I don't know
17 exactly what teachers have had to
18 deal with for decades. Yeah, I
19 don't know.

20 BY MR. SANDOVAL-BUSHUR:

21 Q. You don't know if part of
22 what teachers have had to do for many years
23 is dealing with student conflicts because
24 of things that happen outside of class?

25 MR. GRADEN: Objection.

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1 Scope. Asked and answered.

2 THE WITNESS: Perhaps they
3 have.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. When a school makes a
6 decision to hire a teacher to teach a
7 class, the school understands that some of
8 the time that the teacher is teaching will
9 be spent dealing with student conflicts
10 because of things that happen outside of
11 class, correct?

12 MR. GRADEN: Objection.

13 Foundation. Asked and answered.
14 Scope.

15 THE WITNESS: I don't know the
16 specifics of what school districts
17 hire teachers to do and I don't
18 know the time frame over which
19 they've hired them to do it. I've
20 done no analysis of anything
21 related to the specifics of each
22 teacher's actions during or what
23 school districts assume each
24 teacher will do over the course of
25 their employment.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. You are not offering the
3 opinion that teachers spend more time
4 dealing with student conflicts because of
5 the things that happen outside of class in
6 a world with social media than they would
7 have spent in a world without social media,
8 correct?

9 MR. GRADEN: Objection. Form.
10 Vague.

11 THE WITNESS: I am offering no
12 opinions on the causal -- of causal
13 links between social media and
14 whatever the specifics of this
15 particular example are.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. So the answer is, correct?

18 A. Correct.

19 Q. You are not offering the
20 opinion that teachers spend more time
21 dealing with student conflicts relating to
22 things that happen outside of class because
23 of social media, correct?

24 MR. GRADEN: Objection. Asked
25 and answered.

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1 THE WITNESS: I'm offering no
2 opinions on causality, so correct.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. One of the job
5 responsibilities of a teacher is to provide
6 instruction and support relating to
7 students' social and emotional needs,
8 correct?

9 MR. GRADEN: Objection.
10 Scope.

11 THE WITNESS: Again, I do not
12 know the specifics for which all --
13 what is included and exactly what
14 schools expect from teachers.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. You don't know that part of
17 what teachers do and, actually, a very
18 important part of what teachers do, is to
19 provide instruction and support relating to
20 students' social and emotional needs?

21 MR. GRADEN: Objection.
22 Foundation testimony.

23 THE WITNESS: Sorry, so it's
24 social and emotional --
25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Needs.

3 A. Instruction related to social
4 and emotional needs?

5 Q. Yes.

6 A. I mean, certainly, they
7 address social and emotional things. I
8 don't know to what extent they're providing
9 instruction related to them, but,
10 certainly, yeah, teachers are concerned
11 about students and making sure that they
12 can learn.

13 Q. One of the things that
14 teachers do is to provide instruction and
15 support relating to student social and
16 emotional issues, correct?

17 A. They could, they may. I
18 don't know if they all do.

19 Q. Many -- that's commonplace,
20 right?

21 MR. GRADEN: Objection.

22 THE WITNESS: I do not know
23 the commonality of it.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. Okay. When a school makes a

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1 decision to hire a teacher to teach a
2 class, the school understands that some of
3 the teacher's time will be spent providing
4 instruction and support relating to
5 students' social and emotional needs,
6 correct?

7 MR. GRADEN: Objection.

8 THE WITNESS: Again, I don't
9 know if they assume that for every
10 teacher they hire, I do not know
11 that.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. And it was not part of your
14 methodology in any way to compare what
15 school districts expected teachers to do
16 during a school day with what teachers
17 actually did during a school day, correct?

18 A. No, that's not my part of
19 my -- what I needed to do to calculate the
20 losses in my assignment.

21 Q. And so if, from a school's
22 perspective, teachers are spending their
23 days doing exactly what the school expects
24 and wants the teacher to be doing, that
25 fact is immaterial to your damages

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1 calculations in this case, correct?

2 MR. GRADEN: Objection. Form.

3 THE WITNESS: I don't think we
4 would be sitting here in a lawsuit
5 if they weren't concerned about any
6 changes in what teachers were
7 doing.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. That doesn't answer my
10 question, Dr. Ward. If from a school's
11 perspective, teachers are spending their
12 days doing exactly what the school expects
13 and wants the teacher to be doing, that
14 fact is immaterial to your damages
15 calculations in this case, correct?

16 MR. GRADEN: Objection. Asked
17 and answered.

18 THE WITNESS: You're making an
19 assumption which is directly
20 contradicted by the existence of
21 the lawsuit, so I don't know how to
22 answer that. You're asking me to
23 assume something which I know to be
24 false. So if you assume something
25 that is obviously false, then I

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1 guess you get a different answer,
2 but --

3 BY MR. SANDOVAL-BUSHUR:

4 Q. You don't have any
5 information about how any school district
6 expects teachers to spend their workdays,
7 correct?

8 MR. GRADEN: Objection.
9 Vague.

10 THE WITNESS: I do not have
11 any information about the time
12 allocations that school districts
13 expect for each teacher in their
14 districts, no.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. Or for teachers generally in
17 the districts, correct?

18 A. Yes. No, I do not know
19 the -- you know, I'm not sure that exists,
20 but I don't -- to the extent that it does
21 exist, I certainly don't know it.

22 Q. You are not offering the
23 opinion that teachers spend more time
24 providing instruction and support relating
25 to students' social and emotional needs in

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1 a world with social media than they would
2 have spent in a world without social media,
3 correct?

4 MR. GRADEN: Objection.
5 Vague.

6 THE WITNESS: I'm making no
7 opinions about causal links, so,
8 no -- so, correct, I'm not doing
9 that.

10 BY MR. SANDOVAL-BUSHUR:

11 Q. You're not offering the
12 opinion that teachers spent more time
13 providing instructional support regarding
14 students' social and emotional needs
15 because of social media, correct?

16 A. That's almost the same
17 question, but, correct, I am not doing
18 anything related to causality.

19 Q. For decades, teachers have
20 had to provide support to students with
21 mental health challenges, correct?

22 MR. GRADEN: Objection.
23 Scope.

24 THE WITNESS: Again, I don't
25 know the time period over which

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1 they've done it. I don't know, you
2 know, what you mean exactly by
3 support, but I do know that they do
4 deal with mental health issues, at
5 least some people on staff do.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. And school districts
8 understand when they hire a teacher that
9 some of that teacher's time is going to be
10 spent dealing with mental health issues,
11 correct?

12 MR. GRADEN: Objection.
13 Scope.

14 THE WITNESS: That, I don't
15 know. I don't know if, you know,
16 they assume every teacher has it.
17 I don't know if they're going to,
18 you know, assume that that's mostly
19 with others. I don't know.
20 Specialists, counselors, I don't
21 know.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. Does a school district lose
24 the time that a teacher spends dealing with
25 students' mental health issues?

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1 MR. GRADEN: Objection.

2 Vague.

3 THE WITNESS: There's an
4 opportunity cost associated with
5 it.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. But schools -- well, I'll
8 move on.

9 You're not offering the
10 opinion that teachers spend more time
11 providing support to students with mental
12 health issues in a world with social media
13 than they would have spent in a world
14 without social media, correct?

15 A. I'm offering no opinions
16 related to causality, so correct.

17 Q. You are not offering the
18 opinions that teachers spent more time
19 providing support to students with mental
20 health challenges because of social media,
21 correct?

22 A. Correct, I'm offering no
23 opinions related to causality.

24 Q. One of the job
25 responsibilities of many non-teacher school

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1 employees is to address student
2 misbehavior, correct?

3 MR. GRADEN: Objection.

4 THE WITNESS: Sorry, say it
5 again.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. One of the job
8 responsibilities of many non-teacher school
9 employees is to address student
10 misbehavior, correct?

11 A. I don't know if it's many, I
12 know that it is certainly, you know, within
13 the general purview of school district
14 staff.

15 Q. Addressing student
16 misbehavior has been a job function of many
17 school district staff for decades, correct?

18 MR. GRADEN: Objection.
19 Scope.

20 THE WITNESS: Again, I do not
21 know the, you know, precise timing
22 in here, but certainly it's, you
23 know, part of the purview,
24 generally speaking, of school
25 district staff.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. You are not offering the
3 opinion that school employees spend more
4 time dealing with student misbehavior in a
5 world with social media than they would
6 have spent in a world without social media,
7 correct?

8 A. Correct, I'm offering no
9 opinions related to causality.

10 Q. You are not offering the
11 opinion that school employees spent more
12 time dealing with student misbehavior
13 because of social media, correct?

14 A. Correct. I'm making --
15 offering no opinions related to causality.

16 Q. One of the job
17 responsibilities of some non-teacher school
18 employees is to provide support relating to
19 student social and emotional needs,
20 correct?

21 MR. GRADEN: Objection.
22 Foundation.

23 THE WITNESS: That is true.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. Providing support relating to

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1 students' social and emotional needs has
2 been a responsibility of certain
3 non-teacher school employees for decades,
4 correct?

5 MR. GRADEN: Objection.

6 Scope.

7 THE WITNESS: I think so.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. When a school district makes
10 the decision to hire an employee like a
11 counselor or psychologist, social worker,
12 the school understands that some of the
13 employee's time will be spent providing
14 support relating to students' social and
15 emotional needs, correct?

16 MR. GRADEN: Objection.

17 Scope. Asked and answered.

18 THE WITNESS: They may assume
19 that some of their employees deal
20 with it. I do not know if they
21 assume that all of them will.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. You are not offering the
24 opinion that school employees spend more
25 time providing support relating to

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1 students' social and emotional needs in a
2 world with social media than they would
3 have spent in a world without social media,
4 correct?

5 A. Correct, I'm offering no
6 opinions related to causality.

7 Q. You are not offering the
8 opinion that school employees spent more
9 time providing instruction and support to
10 students -- relating to students' social
11 and emotional needs because of social
12 media, correct?

13 A. Correct. I'm offering no
14 opinions related to causality.

15 Q. And you are not offering the
16 opinion that school employees spend more
17 time providing support to students with
18 mental health challenges in a world with
19 social media than they would have spent in
20 a world without social media, correct?

21 A. Correct. I'm offering no
22 opinions related to causality.

23 Q. You are not offering the
24 opinion that school employees spent more
25 time providing support to students with

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1 mental health challenges because of social
2 media, correct?

3 A. Correct. I'm offering no
4 opinions related to causality.

5 Q. One way that a teacher may
6 spend the time they are scheduled to be
7 teaching a class is by proctoring a test,
8 correct?

9 MR. GRADEN: Objection.
10 Foundation.

11 THE WITNESS: Sorry, they may
12 spend their time --

13 BY MR. SANDOVAL-BUSHUR:

14 Q. Proctoring a test.

15 A. That is one thing that a
16 teacher could do during the school day.

17 Q. If while proctoring a test a
18 teacher sees a student engaging in
19 unauthorized use of social media and spends
20 time addressing that student's unauthorized
21 use of social media, that time would be
22 included in your damages estimate, correct?

23 MR. GRADEN: Objection.
24 Vague.

25 THE WITNESS: I mean, I'm not

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1 sure on, again, the specific
2 details. I'm relying on the
3 affiants or the teachers in the
4 survey to report time for at-issue
5 conduct that's appropriate for me
6 to use.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. If teachers responding to the
9 Klein teacher time survey included in their
10 estimates the following example: The
11 teacher is proctoring a test, the teacher
12 sees a student engaging in unauthorized use
13 of social media and spends time addressing
14 that student's use of social media, that
15 time would be included in your damages
16 estimate, correct?

17 MR. GRADEN: Objection. Asked
18 and answered.

19 THE WITNESS: Again, you know,
20 I have no opinions or knowledge of
21 specifics. I am saying, look, the
22 affiants or the teachers in the
23 survey or Mr. Klein in his opinions
24 regarding his survey, the time that
25 they've provided to me is the time

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1 at issue in this case. The details
2 of it, that's not part of my
3 assignment. I don't have opinions
4 about the precise breakdowns or
5 exactly what is or isn't included.

6 To me, it is reasonable to
7 assume that we are part of a
8 lawsuit, the affiants were
9 instructed to, you know, provide
10 sworn testimony under oath
11 related as part of this lawsuit.

12 Mr. Klein, I don't know for
13 sure, but I will assume he
14 understood his assignment was to
15 measure time at issue related to
16 this lawsuit, so I'm assuming
17 that what's in there is the stuff
18 at issue. I do not have opinions
19 about specifics.

20 BY MR. SANDOVAL-BUSHUR:

21 Q. Okay. That was not
22 responsive to my question.

23 MR. GRADEN: I disagree.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. I'm really trying to

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1 understand how your opportunity cost
2 methodology applies in particular
3 scenarios, so that is the import of my
4 question. I have to ask about the specific
5 examples of how teachers may spend their
6 time in the school day in order to
7 understand how your damages methodology
8 applies to those examples. So when I'm
9 asking this question, I am just asking you
10 to assume that this time that is included
11 in the estimates that you received.

12 MR. GRADEN: And Dr. Ward
13 answered your question.

14 THE WITNESS: Okay. So you're
15 assuming that this is at-issue
16 conduct?

17 BY MR. SANDOVAL-BUSHUR:

18 Q. We are assuming that it is
19 time for which you are -- you are using in
20 your calculation, in your damages
21 calculation. So if we assume that time --

22 A. Okay. So --

23 Q. -- included in your damages
24 calculations includes a teacher who is
25 proctoring a test, sees a student engaging

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1 in unauthorized use of social media, and
2 spends time addressing that student's
3 unauthorized use of social media.

4 A. Okay.

5 MR. GRADEN: Is there a
6 question?

7 BY MR. SANDOVAL-BUSHUR:

8 Q. When the -- for purposes of
9 your methodology, that time would be
10 included in your damages calculation even
11 though the teacher was spending that time
12 proctoring the test doing exactly what the
13 teacher was meant to be doing during that
14 time; is that correct?

15 MR. GRADEN: Objection.
16 Vague.

17 THE WITNESS: I mean, we
18 stipulated that it's at-issue
19 conduct, it's time at issue and is
20 included in the time loss
21 estimates. So if it's included in
22 the time loss estimate, then, yes,
23 it's included in my estimate.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. Your opinion is that a school

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1 district should be able to recover damages
2 for the amount of time a teacher spends
3 addressing student social media-related
4 misbehavior, even if in the absence of
5 social media, the teacher would have still
6 spent that time looking out for and
7 addressing students' behavior, correct?

8 MR. GRADEN: Objection.

9 Misstates opinion.

10 THE WITNESS: If it's time
11 that was spent addressing at-issue
12 conduct, it is relevant time for my
13 calculation.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. And so if it's an hour while
16 a teacher is proctoring a test, they're
17 going to spend that entire hour looking out
18 for students who are cheating or
19 misbehaving in some way, any portion of in
20 time that is spent specifically on social
21 media-related misbehavior is included in
22 your damages calculation, correct?

23 MR. GRADEN: Objection. Form.

24 THE WITNESS: They have
25 opportunity costs associated with

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1 every choice that they make
2 throughout the day. So there's an
3 opportunity cost associated with
4 dealing with this as opposed to
5 paying attention to somebody else
6 or whatever it might be, whatever
7 else they may have been doing at
8 the time. All choices of scarce
9 resources impose opportunity costs.
10 So, in this case, yeah, there is an
11 opportunity cost associated with
12 that particular example.

13 BY MR. SANDOVAL-BUSHUR:

14 Q. So if there's an hour while a
15 teacher is proctoring a test, they're going
16 to spend that entire hour looking out for
17 students who are cheating or misbehaving in
18 some way, any portion of that time that the
19 teacher spends specifically addressing a
20 student's social media-related misbehavior
21 is included in your damages calculation,
22 correct?

23 MR. GRADEN: Objection.

24 Form.

25 THE WITNESS: Assuming it's

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1 included in the time loss
2 calculations, yeah, there's an
3 opportunity cost associated with
4 that time and effort.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. If the time that a district
7 employee spends disciplining a student for
8 posting a video of a fight on social media
9 is included in the time estimates that you
10 rely on for your damages calculations, you
11 would include that time in your damages
12 estimate regardless of how the district
13 employee would have spent his or her time
14 if he or she was not addressing the student
15 posting the video of the fight on social
16 media, correct?

17 MR. GRADEN: Object. Form.
18 Vague.

19 THE WITNESS: Yes, all choices
20 to allocate scarce time and effort
21 impose opportunity costs. So
22 there's an opportunity cost here,
23 assuming it's included in the time
24 loss estimates, it is -- there's an
25 opportunity cost.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. And from your perspective,
3 that is true even if had the district
4 employee not spent that time disciplining
5 the student, the district employee spent
6 that time socializing with coworkers,
7 correct?

8 MR. GRADEN: Objection.
9 Vague.

10 THE WITNESS: Yup. There's an
11 opportunity cost. You know, what
12 matters is there's time at issue
13 and when you go through the process
14 of valuing or costing out
15 initiatives or programs in
16 education, you just say what's the
17 time at issue? What's the value of
18 that time? It's what they got
19 paid. They got paid their wage and
20 salary for that time, so there's an
21 opportunity cost and it's valued at
22 their wage and benefits.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. Your opinion is that time
25 that district employees spend addressing

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1 issues relating to student use of social
2 media is an opportunity cost and properly
3 included in your damages estimates, even if
4 in the absence of addressing that student
5 social media issue, the teacher instead
6 surfed the internet --

7 MR. GRADEN: Objection.
8 Vague.

9 MR. SANDOVAL-BUSHUR: --
10 correct?

11 THE WITNESS: Whatever the
12 teacher does, right, during, while
13 they're getting paid, that's what
14 they get paid to do. And so when
15 you shift it from one thing to
16 another like you incurred a cost as
17 the district, right? And, you
18 know, I think there's something
19 lurking in your -- in these
20 examples that somehow they're
21 valueless. Well, surfing the
22 internet could be quite valuable.
23 Maybe I'm learning about a new
24 assignment or a new way to teach or
25 how to deal with some issue, right?

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1 So, you know, you're trying to
2 posit that there's some way to
3 judge or value each action that
4 teachers do and that should change
5 how I value the time. That's not
6 how we do it in education when
7 we're costing things. We just say
8 how much time, what are wages and
9 benefits.

10 BY MR. SANDOVAL-BUSHUR:

11 Q. Even if the time that a
12 school district employee spends addresses
13 student use of social media is more
14 valuable than the time that the school
15 district employee would have spent in the
16 absence of dealing with the student social
17 media use, your opinion is that the time
18 spent addressing the student's social media
19 use is an opportunity cost and properly
20 considered part of damages, correct?

21 MR. GRADEN: Objection. Form.

22 THE WITNESS: I'm sorry, what
23 do you mean by, "time more
24 valuable?" I'm confused.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Where you were just talking
3 about -- you said surfing the internet can
4 be quite valuable.

5 A. Okay.

6 Q. So you have an understanding
7 that time that teachers spend can be
8 valuable and talked about in terms of
9 value, correct?

10 A. Sure, I mean, you know,
11 again, in terms of social output, we're
12 talking about value, right? Again, this is
13 back to that discussion earlier, right,
14 like, we're not measuring output of each
15 action that teachers do. Pretty much,
16 actually, it's impossible to do that. All
17 right? So we can't sit there and say,
18 well, here's the output and here's the
19 value of that output for every possible
20 choice that teachers do. It's just not
21 feasible, even if we wanted to, right?
22 Because to be honest, we don't know the
23 value of what teachers do, in fact, we
24 don't know it for decades until we see what
25 the kids that they're teaching grow up to

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1 be, right? So we don't worry about output
2 or specific value of that output when we're
3 trying to cost education programs. It's
4 simply not feasible.

5 All right. So what we do
6 instead, which is also perfectly reasonable
7 and a fair understanding of opportunity
8 costs, is to say what's the value of the
9 resource at issue, the time the teacher
10 spends. And each unit of teacher time,
11 they don't get paid differently for each
12 unit of teacher time, right? There's not,
13 like, oh, you did this, here's this amount
14 of money, here's this, you get that amount
15 of money. No, they get paid their wage and
16 salary for all of the minutes that they
17 spend, right? So the value of the resource
18 at issue, teacher time, is their wages and
19 benefits.

20 So that's what we're doing.
21 We're just saying, look, there is time and
22 effort that were diverted due to social
23 media, whatever it is, whatever it amounts
24 to, it doesn't matter what they would have
25 done in the absence of it, right, they

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1 would have done something. And what would
2 we have paid them for that something, their
3 wages and benefits.

4 Q. If a principal spends 20
5 minutes disciplining a student for posting
6 something mean about another student on a
7 social media platform and that time was
8 included in the damages estimates or the
9 time estimates that you rely on, that 20
10 minutes would be included in your damages
11 estimates, correct?

12 MR. GRADEN: Objection.
13 Foundation.

14 THE WITNESS: I think we've
15 done so by definition.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. I want you to assume that if
18 the principal had not spent that 20 minutes
19 disciplining the student, the principal
20 would have instead done required paperwork
21 during that period. Because the principal
22 spent the 20 minutes on student discipline,
23 however, the principal works an extra 20
24 minutes at the end of the day to finish the
25 paperwork. The principal does not earn any

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1 overtime, he just works 20 more minutes
2 than he otherwise would have. In your
3 opinion, is there an opportunity cost in
4 that scenario?

5 MR. GRADEN: Objection. Form.

6 THE WITNESS: Yes.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. And what is the proper
9 measure of that opportunity cost?

10 A. Look, again, there was time
11 and effort expended, right, and we value
12 that time at the hourly wage.

13 Q. Even if the time and effort
14 expended addressing the social
15 media-related issue does not reduce the
16 total amount of work that the school
17 employee does in the course of the day --

18 MR. GRADEN: Objection.

19 Foundation.

20 MR. SANDOVAL-BUSHUR: -- is
21 that correct?

22 THE WITNESS: I mean,
23 resources are scarce, when you put
24 something to something, there's by
25 definition something doesn't get

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1 done and it's valued at the wage.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. I want you -- I mean, you're
4 kind of fighting my hypothetical, because
5 in my hypothetical, there is not something
6 that does not get done, right? Do you want
7 me to read it again?

8 A. There's always something that
9 doesn't get done, so I can't agree to the
10 construct of your hypothetical --

11 Q. Well, my --

12 A. -- because it's, you know,
13 yeah, maybe today they put the extra 20
14 minutes in and got it done because there
15 was a deadline, but tomorrow they were
16 tired, so they got 20 minutes less work
17 done. So on net, it's going to show up
18 somewhere, right? So, you know, it's not,
19 like, you can just say, oh, well, the
20 only -- the parameters of understanding
21 opportunity costs are only like some sort
22 of immediate linkage, right? Time and
23 effort are finite, right? And anything
24 that takes from one use means something
25 else doesn't get done. And, cumulatively,

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1 over the course of whatever amount of time,
2 it's going to balance out, unless somehow
3 social media makes teachers and principals
4 somehow more productive that they get more
5 done, but that's, you know, again, that
6 doesn't seem relevant to this particular
7 calculation, right? Again, the way we
8 calculate it is to say, look, there's time
9 and effort that was spent on something that
10 imposes a cost. And there's a value on
11 that cost. It's the wages and benefits.

12 Q. Your opinion is that a school
13 district may seek damages for time that an
14 employee spends addressing an issue
15 relating to social media even if the
16 employee spending time addressing that
17 issue does not negatively affect the
18 employee's ability to complete all of their
19 responsibilities of their job?

20 MR. GRADEN: Objection.

21 Misstates opinion.

22 THE WITNESS: My opinion is is
23 that people don't like to work for
24 free, right? So your hypothetical
25 essentially is requiring that the

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1 principal is going to fully absorb
2 the costs of this social media
3 thing and do so in perpetuity,
4 right? So they'll just keep
5 absorbing, they'll keep working,
6 staying late, they'll keep working
7 extra hours, right, and at no point
8 will they go to their manager and
9 say, I'm working too many hours, I
10 want more money or I'm just going
11 to stop working the same amount.
12 There's always a push and pull,
13 right? Like, again, you can try
14 and construct an unrealistic
15 hypothetical that imagines that
16 somehow there's no cost, but
17 there's always a cost. Economists,
18 there's always a cost. It's, like,
19 literally day one of principles of
20 economics. Anything that has
21 scarce resources imposes costs.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. The cost may not be imposed
24 on the school district though?

25 MR. GRADEN: Objection.

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1 Vague.

2 THE WITNESS: No, I'm saying
3 it eventually, it will -- it shows
4 up somewhere in the school
5 district, right? Like, the
6 employee is essentially part of the
7 district. If they're absorbing
8 those costs, the district is
9 absorbing those costs, because that
10 employee is going to be more tired
11 or maybe they're going to be more
12 angry, maybe they'll ask for more
13 money eventually. Like, it's all
14 part of the system of the district,
15 right? Like, the district isn't
16 some other entity, right? They're
17 incurring those 20 minutes of cost.
18 It's part of the district.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. It was not part of your
21 assignment in this case to determine how
22 school employees would have spent time
23 differently in the absence of social media,
24 correct?

25 A. That was not my assignment.

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1 Q. It was not part of your
2 assignment in this case to determine how
3 school employees would have spent time
4 differently in the absence of the conduct
5 for which Plaintiffs seek to hold
6 Defendants liable, correct?

7 MR. GRADEN: Objection. Form.

8 THE WITNESS: That's the same
9 question, but, no, that was not
10 part of my assignment.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. It was not part of your
13 assignment to identify what specific
14 opportunities school employees gave up when
15 they spent time addressing social media,
16 correct?

17 MR. GRADEN: Objection.
18 Vague.

19 THE WITNESS: As we've
20 discussed, I don't even think
21 that's possible.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. For purposes of your
24 opinions, it did not matter what school
25 employees would have been doing if they had

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1 not been addressing student use of social
2 media, you calculate damages for all of the
3 time that employees reported addressing
4 student use of social media, correct?

5 A. I'm not using an output
6 standard. I am measuring the value of the
7 input.

8 Q. And so the answer to my
9 question is, correct?

10 A. I interpret that to be an
11 output standard and I'm not doing that, so
12 correct.

13 Q. And for purposes of your
14 opinion, it did not matter if some of the
15 time that school district employees spent
16 addressing social media issues would
17 otherwise have been spent on tasks that did
18 not benefit the students, correct?

19 MR. GRADEN: Objection. Asked
20 and answered.

21 THE WITNESS: Sorry, say it
22 again.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. For purposes of your opinion,
25 it did not matter if some of the time that

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1 school district employees spent addressing
2 social media issues would otherwise have
3 been spent on tasks that did not benefit
4 students, correct?

5 A. Correct. Just because it's
6 not spent benefiting students doesn't mean
7 that it's not part of their job or some
8 part of what they do during the day.

9 Q. And it is entirely possible
10 that in a world without social media, all
11 of the time that teachers have spent
12 addressing unauthorized student use of
13 social media would have been spent instead
14 addressing other student misbehavior,
15 correct?

16 MR. GRADEN: Objection.
17 Vague. Scope.

18 THE WITNESS: I have no idea
19 what would have happened in the
20 world without social media. Again,
21 that's a causal question that I
22 have not been asked to address.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. It is entirely possible that
25 in a world without social media, the time

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1 that school employees spent addressing
2 students who bully each other on social
3 media would have instead been spent
4 addressing students who bullied each other
5 by text message or face to face, correct?

6 MR. GRADEN: Objection. Asked
7 and answered.

8 THE WITNESS: Again, this is
9 the same question. You're asking
10 me about, like, what would have
11 happened in the world without
12 social media, I have no sense of
13 what that would be. I have not
14 done any analysis of that. So I do
15 not know whether or not it's
16 possible, probable, anything of
17 that sort.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. Some of the time that school
20 employees spent addressing social media
21 issues might have been used to teach
22 students about digital citizenship, online
23 safety, social emotional skills, or
24 responsible technology use, correct?

25 MR. GRADEN: Objection. Form.

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1 Foundation.

2 THE WITNESS: Sorry, what was
3 the first part of the question?

4 BY MR. SANDOVAL-BUSHUR:

5 Q. Some of the time that school
6 employees spent addressing social media
7 issues might have been used to teach
8 students about digital citizenship, online
9 safety, social emotional skills, or
10 responsible technology use, correct?

11 MR. GRADEN: Same objection.

12 THE WITNESS: It's possible, I
13 don't know what they would have --
14 what they would have done with the
15 time. Again, that's not -- we just
16 talked about that's not part of
17 what my assignment was.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. You would agree that time
20 spent by school employees teaching students
21 about digital citizenship, online safety,
22 social emotional skills, or responsible
23 technology use can be beneficial to
24 students, correct?

25 MR. GRADEN: Objection.

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1 Scope.

2 THE WITNESS: Assuming it's
3 beneficial to students, yeah, it
4 could be.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. In estimating damages, you
7 did not attempt to distinguish between
8 social media-related disciplinary time
9 spent by school employees and time spent by
10 employees teaching students about digital
11 citizenship, online safety, social
12 emotional skills, or responsible technology
13 use, correct?

14 MR. GRADEN: Objection. Form.
15 Foundation.

16 THE WITNESS: Again, this
17 seems to be an estimate of time
18 loss question, which as we've
19 discussed an ad nauseam was not
20 part of my assignment. I believe
21 that, you know, the affiants and
22 the survey include the relevant
23 time for the -- for calculating
24 damages in this matter.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. And so the answer is,
3 correct?

4 MR. GRADEN: Asked and
5 answered.

6 THE WITNESS: Correct.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. What benefits do school
9 districts offer their employees?

10 A. Like employee benefits?

11 Q. Correct.

12 A. Typically, you're going to
13 get health insurance, retirement, and then
14 it becomes a real hodgepodge of district by
15 district what kind of additional kind of
16 benefits and perks you get.

17 Q. Why do school districts offer
18 benefits to their employees?

19 MR. GRADEN: Objection, scope.

20 THE WITNESS: It's part of
21 compensation. It's a different way
22 of providing compensation. Some of
23 it has to do with their tax
24 treatment benefits. Some of it has
25 to do with employee preferences.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Do the benefits that school
3 districts offer employees depend on how the
4 employees spend their time during the
5 workday?

6 A. Not that I'm aware of, I
7 think they're, like, salary, right, you get
8 them based on whatever your position is.

9 Q. If a school district employee
10 spends time during the workday addressing
11 student use of social media, does that in
12 any way change the amount of money that a
13 school district spends on providing
14 benefits to that employee?

15 MR. GRADEN: Objection.

16 Vague.

17 THE WITNESS: Not that I'm
18 aware of, no.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. You're not offering the
21 opinion that any school district spent more
22 money on employee benefits because of
23 social media, correct?

24 MR. GRADEN: Objection.

25 Vague.

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1 THE WITNESS: No, that's a
2 causal question. I'm not answering
3 any causal questions.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. You are not offering the
6 opinion that any school district lost the
7 value of any employee benefits because of
8 social media, correct?

9 MR. GRADEN: Objection.
10 Vague.

11 THE WITNESS: Well, it's a
12 causal question. No, I'm offering
13 no opinions that relate to
14 causality.

15 Since we're starting a new
16 topic, can I pause for just one
17 minute, I have got to go to the
18 bathroom?

19 MR. SANDOVAL-BUSHUR: Sure.

20 THE VIDEOGRAPHER: Going off
21 video record 1:54 p.m.

22 - - - - -

23 (A recess was taken at this time.)

24 - - - - -

25 THE VIDEOGRAPHER: Back on

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1 video record 2:10 p.m.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Dr. Ward, you present your
4 damages estimates separately for salaries
5 and for salaries plus benefits, correct?

6 A. That's correct.

7 Q. Why do you do that?

8 A. That's a good question. I
9 think it's a habit that comes from other
10 times of calculations when I do salaries, I
11 usually just have salaries and salaries
12 plus benefits.

13 Q. Are you aware of any reason
14 why benefits should not be included in an
15 opportunity cost calculation?

16 A. No, the literature that I
17 cite is pretty clear that it's wages and
18 benefits that are relevant.

19 Q. Literally ever activity that
20 a teacher spends time on has an opportunity
21 cost, correct?

22 A. That is true.

23 Q. So time that a teacher spends
24 grading papers has an opportunity cost,
25 right?

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1 A. Yup.

2 Q. And if you were going to
3 calculate the opportunity cost of teachers
4 grading papers, would you do the same thing
5 essentially that you have done in this
6 case, which is, you would calculate
7 teachers' salaries and benefits, then
8 identify using a survey or other data what
9 portion of a teacher's time is spent
10 grading papers and then multiply the
11 salaries and benefits by that portion of
12 time spent grading papers to arrive at the
13 opportunity cost?

14 A. That's correct.

15 Q. So the fact that something
16 has an opportunity cost does not mean that
17 it is damages, correct?

18 MR. GRADEN: Objection.

19 THE WITNESS: Not necessarily,
20 no.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. You understand that it is a
23 question for the court or the jury to
24 decide whether the opportunity costs that
25 you have calculated in this case are

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1 actually damages, correct?

2 A. I think that's what they're
3 for.

4 Q. Are there any limitations
5 associated with relying on the Klein
6 teacher time survey for purposes of your
7 damages estimates?

8 MR. GRADEN: Objection.
9 Vague.

10 THE WITNESS: Mr. Klein
11 provided time estimates that were
12 use useful for me in my
13 calculation. I can't think of any
14 specific limitation off the top of
15 my head.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. If you were going to publish
18 your damages estimates in a peer-reviewed
19 journal, would you identify any limitations
20 relating to your reliance on the Klein
21 teacher time survey?

22 A. I'm not sure I would ever
23 publish this in a peer-reviewed journal,
24 it's not that interesting. I mean, you
25 would probably put in the standard

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1 discussion of limitations of any survey.

2 Q. And what are those
3 limitations?

4 A. Oh, you know, just how -- how
5 precise is the data, so how large is the
6 sample. You would -- might talk about the,
7 you know, whatever validity of the survey
8 or the survey methodology, you know,
9 whatever the usual things are that you do
10 when you put in -- publish some form of
11 survey estimate.

12 Q. Any other limitations you
13 would identify?

14 A. I mean, I don't -- I'm not
15 usually the one who is doing published
16 estimates of original surveys, so I can
17 only kind of speak generally.

18 Q. Do you hold yourself out as
19 an expert in survey design?

20 A. No.

21 Q. There are downsides to
22 relying on self-reported data, correct?

23 MR. GRADEN: Objection.

24 Vague.

25 THE WITNESS: I guess there

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1 can be, there's --

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Self-reported data can be
4 inaccurate, correct?

5 A. All data can be inaccurate.

6 Q. What are some of the reasons
7 why self-reported data specifically can be
8 inaccurate?

9 MR. GRADEN: Objection.

10 Foundation. Vague.

11 THE WITNESS: I mean, if you
12 don't report whatever you're being
13 asked accurately.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. And are you familiar with the
16 term, "response bias"?

17 A. I think I've heard the term.
18 I couldn't define it for you.

19 Q. Are you familiar with the
20 idea that a potential limitation of
21 self-reported data is that the respondents
22 may provide responses that are in line with
23 what they think they are expected to say in
24 responding to the questions?

25 MR. GRADEN: Objection.

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1 Foundation.

2 THE WITNESS: I know that's
3 some issue that survey expert-type
4 people like to worry about.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. Did you consider that issue
7 in forming your opinions in this case?

8 A. No, that's the type of
9 technical thing that I'm relying on Mr.
10 Klein to deal with.

11 Q. Is your reliance on
12 self-reported data for your damages
13 estimate a limitation on your reliability
14 of your damages estimates?

15 MR. GRADEN: Objection.
16 Vague.

17 THE WITNESS: I mean, any data
18 you rely on likely have some form
19 of limitation. So what exactly
20 what was the limitation you're
21 worrying about here?

22 BY MR. SANDOVAL-BUSHUR:

23 Q. Lack of reliability of
24 self-reported data.

25 A. I have no basis to assume

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1 that this data is unreliable.

2 Q. And you have no reason to
3 think that it's reliable either?

4 MR. GRADEN: Objection.

5 THE WITNESS: I'm assuming
6 that Mr. Klein, because he has been
7 doing surveys for a long time,
8 understands how to do a survey that
9 should produce reliable data.

10 BY MR. SANDOVAL-BUSHUR:

11 Q. But that's your assumption,
12 it's not something that you did or could
13 validate, correct?

14 A. I have --

15 MR. GRADEN: Objection. Form.

16 THE WITNESS: Yeah, I have no
17 ability to validate, no expertise
18 to even offer an opinion on the
19 precise questions that Mr. Klein
20 has used here.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. When relying on the results
23 of a survey of a population, are there any
24 guidelines regarding how many survey
25 responses are necessary in order for the

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1 results to be reliable?

2 MR. GRADEN: Objection.

3 Scope.

4 THE WITNESS: No.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. So if a survey has one
7 response, is that enough to be reliable?

8 A. I mean, the size of the
9 survey affects the precision of the
10 estimate. But it doesn't inherently
11 suggest that the information provided is
12 unreliable. It just means that it's drawn
13 from a smaller sample, so you should think
14 of it as likely less precise.

15 Q. If a survey has a small
16 number of responses, does that limit your
17 ability to draw conclusions about the
18 application of that small number of
19 responses across a broader population?

20 A. It limits the precision of
21 the estimate, but it doesn't limit the --
22 it doesn't suggest that it's biased
23 inherently. Small samples aren't
24 inherently biased, right? So the average
25 in a small sample isn't inherently

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1 different from, you know, from the true
2 average than the average in a large sample.

3 The difference between small
4 and large samples is just with a large
5 sample, I can trust the estimate, you know,
6 is more precise, right, the confidence
7 interval around it is narrower, because I
8 have more observations.

9 With a small sample, there's
10 no reason to think that the small sample is
11 providing you a biased answer, but you
12 should assume that the precision of the
13 estimate is -- is smaller or is less
14 precise. That's what small samples do and
15 that's why I put confidence intervals in my
16 calculations so that I'm accounting for
17 sample size in those ways.

18 Q. In your professional work
19 outside of litigation, have you ever
20 determined that a survey question had too
21 few responses to be reliable?

22 A. Never had occasion to.

23 Q. Are there any particular
24 downsides associated with relying on a
25 small sample size when you are ultimately

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1 relying on the mean of the responses?

2 MR. GRADEN: Objection.

3 THE WITNESS: Just for the,
4 you know, the precision issue that
5 I discussed earlier, but that's why
6 you use a confidence interval
7 because that helps you convey that
8 precision.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. When you rely on a small
11 sample size, there is a greater risk that
12 the mean of the results could be biased by
13 outlier responses, correct?

14 MR. GRADEN: Objection.
15 Foundation.

16 THE WITNESS: It's -- that's
17 what we mean by that precision
18 being wider.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. But that's correct?

21 A. Say it again.

22 Q. When you rely on a small
23 sample size, there is a greater risk that
24 the mean of the results could be biased by
25 outlier responses, correct?

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1 A. Yeah, they're influencing the
2 mean by more, so you may end up further
3 from the true mean than if you had a larger
4 sample.

5 Q. You did not take any steps to
6 determine that the mean of the responses to
7 Klein's teacher time survey was not biased
8 by outlier responses, correct?

9 A. If there's outliers in the
10 data, I, actually, I have no problem with
11 them being there, because it's part of the
12 distribution which is relevant for
13 calculating damages.

14 Q. You did not take any steps to
15 determine that the mean of the responses to
16 the Klein teacher time survey was not
17 biased by outlier responses, correct?

18 MR. GRADEN: Objection. Asked
19 and answered.

20 THE WITNESS: If there -- you
21 know, I am not concerned about
22 outliers in the data, because there
23 can be true outliers in the real
24 world, right? And so to the extent
25 that there are people who deal

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1 with -- spend more time dealing
2 with social media, I'm fine with
3 that information being included.
4 You know, unless it's an obvious
5 outlier, it's an error, just
6 because somebody is seven foot four
7 doesn't mean that they are not part
8 of something that I would want to
9 include if I calculated the mean
10 height of the people in the room.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. When relying on the results
13 of a survey of a population, are there any
14 guidelines regarding what response rate is
15 necessary in order for the results to be
16 reliable?

17 A. I have no idea.

18 Q. In your professional work
19 outside of litigation, have you ever
20 determined that a survey question had too
21 low of a response rate to be reliable?

22 A. Never been part of what I do.

23 Q. You did not calculate the
24 response rate for any of the Klein teacher
25 time surveys, correct?

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1 A. That is correct.

2 Q. And offering your damages
3 estimates based on the Klein teacher time
4 survey responses, you did not consider what
5 the response rate was, correct?

6 A. Correct. I'm assuming that
7 Mr. Klein has provided me with data that's
8 sufficient for what I'm trying to do.

9 Q. Is it your understanding that
10 it was part of Mr. Klein's assignment in
11 this case to determine that the results of
12 his survey had an appropriate response
13 rate?

14 A. I don't know what
15 specifically, but I assumed that Mr.
16 Klein -- part of Mr. Klein's assignment was
17 to provide me with information that
18 satisfied, you know, his opinion as an
19 expert in survey design that it would
20 provide me, the person downstream from him,
21 with a usable estimate for the purposes of
22 my calculation.

23 Q. And so if Mr. Klein had given
24 you a survey that had results for --
25 results based on only one teacher response,

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1 you would have still relied on that; is
2 that right?

3 MR. GRADEN: Objection.
4 Foundation.

5 THE WITNESS: I mean, again,
6 you know, assuming that he's okay
7 with that, if he says that, yup,
8 one is appropriate. I don't know
9 about one, but if he's, like, yeah,
10 this is -- for this population, one
11 is a reasonable estimate, then,
12 yeah, I'm going to trust him,
13 because that's his role, right?
14 I'm downstream and I'm, like,
15 great, if you -- if you believe
16 that this is an appropriate
17 estimate for me to use, I'm going
18 to use it. And if he said -- felt
19 that some of his results were not
20 sufficiently reliable for me, I
21 assume he would have made some note
22 in his report that I don't think
23 these are sufficiently reliable to
24 be used.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Do you know that Mr. Klein,
3 in fact, believes that the results of his
4 survey are sufficient for your use in a
5 damages calculation?

6 MR. GRADEN: Objection.
7 Foundation.

8 THE WITNESS: Again, I'm
9 assuming that based on the fact
10 that that's what was provided to me
11 and there was no indication that he
12 had any hesitation about providing
13 these results to me.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. I understand what you say
16 you're assuming, but do you personally
17 actually know that Mr. Klein in fact
18 believes that the results of his survey are
19 sufficient for your use in a damages
20 calculation?

21 MR. GRADEN: Objection. Asked
22 and answered.

23 THE WITNESS: I have not
24 specifically asked him that
25 question.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Nor has he provided you with
3 that specific information, correct?

4 MR. GRADEN: Objection.

5 Foundation.

6 THE WITNESS: Well, you know,
7 I mean, he has provided a report,
8 all of the means that are in -- I
9 used in my report are reported in
10 his report. I recall no indication
11 of him saying you shouldn't use
12 this for the purposes of the
13 damages calculation that I was
14 hired to do this assignment for as
15 part of.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. That's an assumption that you
18 are reaching in connection with reading Mr.
19 Klein's report, correct?

20 MR. GRADEN: Objection.

21 Foundation.

22 THE WITNESS: It's an
23 assumption that I'm making based on
24 all of the reasons that I've laid
25 out over the last several

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1 questions.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. And so you personally in
4 offering your damages estimates, based on
5 the Klein teacher time survey responses,
6 did not consider whether the response rate
7 was sufficiently high to make the results
8 reliable?

9 MR. GRADEN: Objection.

10 MR. SANDOVAL-BUSHUR: Correct?

11 MR. GRADEN: Objection.

12 Misstates testimony.

13 THE WITNESS: I assumed that
14 the information that Mr. Klein
15 provided me was sufficient for my
16 use. I did not make any
17 determination based on response
18 rates or any other technical survey
19 matter.

20 BY MR. SANDOVAL-BUSHUR:

21 Q. What is nonresponse bias?

22 A. I couldn't give you a
23 definition off the top of my head.

24 Q. Are you aware that
25 nonresponse bias is when people who decline

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1 to complete a survey are systematically
2 different from those who participate in the
3 survey?

4 A. Sure. That sounds like
5 nonresponse bias.

6 Q. And you did not do anything
7 to determine whether there was nonresponse
8 bias in Klein's survey, correct?

9 MR. GRADEN: Objection.

10 THE WITNESS: Again, I trusted
11 Mr. Klein to address all of the
12 potential biases that the survey
13 expert-type people, you know,
14 usually like to consider when they
15 go through and design and implement
16 a survey.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. You personally did not do
19 anything to determine whether there was
20 nonresponse bias in Klein's survey,
21 correct?

22 MR. GRADEN: Objection.

23 Foundation.

24 THE WITNESS: It was not part
25 of my assignment.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. And you didn't do that?

3 A. I didn't do it.

4 Q. You do not -- let me ask the
5 question again, sorry.

6 You did not do anything to
7 determine whether the teachers who
8 completed Klein's survey are in any way
9 systematically different from the teachers
10 who did not participate in his survey,
11 correct?

12 MR. GRADEN: Objection.
13 Foundation.

14 THE WITNESS: I did not do
15 that.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. For the results of the Klein
18 teacher time survey, you present the upper
19 and lower bounds of the 95 percent
20 confidence interval for each of the time
21 estimates that you rely on, correct?

22 A. Correct.

23 Q. The confidence interval can
24 also be called the margin of error; is that
25 right?

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1 A. Yeah. Yeah, it's the same
2 basic idea.

3 Q. The confidence interval or
4 margin of error does not account for all of
5 the potential sources of inaccuracy or bias
6 in survey results, correct?

7 MR. GRADEN: Objection. Form.

8 THE WITNESS: No, it's a
9 measure of precision, as opposed to
10 bias is a measure of accuracy.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. The confidence interval or
13 margin of error does not account for
14 inaccuracy that results from questions
15 being poorly worded, correct?

16 A. You're giving me a little bit
17 of a problem there, right, because, you
18 know, you have to -- we have to make some
19 assumptions about what are we talking about
20 when we're saying inaccuracy? What are we
21 measuring and why is it inaccurate?

22 Q. Well, the Klein teacher time
23 survey is attempting to measure the amount
24 of time that teachers spend addressing
25 issues relating to student use of social

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1 media, correct?

2 A. Yes.

3 Q. So if we use as the measure
4 of accuracy the actual mean time that
5 teachers spend addressing student use of
6 social media, is that acceptable?

7 A. Yes. So there's some true
8 measure and then we have some agreed-upon
9 thing that we're measuring and we have some
10 notion of, we don't observe it, but this is
11 the truth.

12 Q. Correct.

13 A. Okay.

14 Q. The confidence interval or
15 margin of error does not account for
16 inaccuracy that results from questions
17 being poorly worded, correct?

18 MR. GRADEN: Objection. Asked
19 and answered.

20 THE WITNESS: Okay. So if you
21 assume that there is inaccuracy
22 in -- or poorly worded questions
23 have caused inaccuracy, right, so
24 that the measure that you're
25 getting from the survey is

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1 systematically different than the
2 true measure that we postulated,
3 no, the confidence interval does
4 not, you know, tell you anything
5 about that bias.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. The confidence interval or
8 margin of error does not account for
9 inaccuracy that results from respondents
10 providing responses that are inaccurate
11 because, for example, they misremember the
12 information they are reporting, correct?

13 MR. GRADEN: Objection. Form.

14 THE WITNESS: Sorry, say it
15 again.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. Yeah. The confidence
18 interval or margin of error does not
19 account for inaccuracy that results from
20 respondents providing responses that are
21 inaccurate because, for example, the
22 respondents misremember the information
23 they are providing, correct?

24 A. Okay. So in this case, the
25 last time it was, you know, you think the

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1 question was poorly worded and that's
2 what's introducing bias. And now you're
3 saying that the respondent is just
4 answering inaccurately. No, it's not --
5 it's not, again, it's a measure, it's about
6 precision, it's sample size and, you know,
7 how much variance is there in the data, you
8 know. So that's, like, the way you teach
9 it, right, is think of a bow and arrow and
10 a target, right? So confidence interval
11 speaks to how many -- how big is the target
12 and, you know, oh, we're really hitting the
13 bull's-eye, and, you know, we're all
14 clustered right around the bull's-eye,
15 right? But we may be, you know, above or
16 below or whatever it is, right?

17 Accuracy is about how close
18 are we hitting the bull's-eye, right? And
19 so the confidence interval helps us
20 understand distribution based on mostly
21 sample size, but also variation that we
22 observe in the data, right, known as a
23 standard deviation.

24 Whereas bias, things that
25 could bias, right, those are biases and the

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1 confidence interval doesn't magically make
2 bias go away. That doesn't mean that the
3 bias answer might not lay within the
4 confidence interval, it could, right, but
5 there's nothing that's inherent in the
6 confidence interval that is speaking to
7 bias.

8 Q. One thing that can bias
9 survey results is people providing
10 inaccurate responses because they
11 misremember the truth of the information
12 they're providing, correct?

13 A. If people don't answer the
14 survey accuracy -- and it's systematic,
15 right, you know, it doesn't have to be
16 biased. It could just be noise, right, if
17 I misremember high and you misremember low,
18 it doesn't mean that the mean is now
19 inaccurate. We have to -- what we have to
20 measure is bias, right? We have to say
21 people systematically over or
22 underrepresent for the mean to be wrong.

23 Q. Okay. If there is bias in a
24 survey because the survey respondents
25 systematically in the same direction

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1 misremember, misreport information on the
2 survey, that bias is not accounted for or
3 included in the confidence interval or
4 margin of error, correct?

5 MR. GRADEN: Objection. Form.

6 THE WITNESS: No, again,
7 that's speaking to the accuracy of
8 the mean. You know, again, it
9 doesn't mean it's outside the
10 confidence interval, but, you know,
11 it's not -- it's a bias.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. And just so that the record
14 is clear, the confidence interval or margin
15 of error does not include or account for
16 that type of bias we were just talking
17 about?

18 MR. GRADEN: Objection. Form.

19 THE WITNESS: It does correct
20 bias.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. Okay. And you understand
23 that survey respondents often misremember
24 and misreport information in response to
25 surveys, correct?

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1 MR. GRADEN: Objection.

2 Foundation.

3 THE WITNESS: I mean, it can
4 happen.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. Yeah. So, for example --

7 A. I don't know how often it
8 happens.

9 Q. For example, it's a
10 well-known phenomenon that in election
11 surveys, people often misremember who they
12 voted for in the prior presidential
13 election, correct?

14 MR. GRADEN: Objection.
15 Foundation.

16 THE WITNESS: I mean, what do
17 you mean by, "often"?

18 BY MR. SANDOVAL-BUSHUR:

19 Q. Are you aware that in
20 election surveys people misremember who
21 they voted for in the previous presidential
22 election?

23 A. Yeah, there's some evidence
24 of that.

25 Q. And people tend to report

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1 that they voted for the person who actually
2 won the election more so than people
3 actually who voted for that person in
4 reality, correct?

5 MR. GRADEN: Objection.

6 Foundation.

7 THE WITNESS: I don't know
8 which direction the misremembering
9 goes.

10 BY MR. SANDOVAL-BUSHUR:

11 Q. And are you also aware that
12 in election surveys, people misremember
13 whether they voted at all in previous
14 elections?

15 A. I'm sure, you know, there's a
16 potential margin of error of that nature in
17 all election surveys, yeah. Yeah, I think
18 that happens.

19 Q. The confidence interval or
20 margin of error does not account for
21 inaccuracy that results from nonresponse
22 bias, correct?

23 A. Again, to the extent that
24 you're talking about something that
25 introduces true bias, you know, so it

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1 causes a deviation in the measurement from
2 the true, no, there's no -- confidence
3 interval does not correct for bias.

4 Q. And the confidence interval
5 is not designed to nor could it correct for
6 bias, correct?

7 A. No, that's not what it's used
8 for.

9 Q. You write in your reports, "I
10 assume that Mr. Klein's results for the
11 typical day provide a reasonable
12 approximation of time lost during the
13 average instructional day;" is that right?

14 A. Yup.

15 Q. What do you mean when you say
16 you, "assume that Mr. Klein's results for
17 the typical day provide a reasonable
18 approximation of time lost during the
19 average instructional day"?

20 A. So when you see questions
21 that are asking about time, right, like,
22 they don't use mathematical terms, like,
23 what do you do on the average day, right?
24 They typically use something like usual or
25 typical, right? And so the assumption is

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1 is that the person is summarizing, you
2 know, the center of their time
3 distribution, right, or something, you
4 know, approximating, you know, the, you
5 know, the common middle or whatever, if you
6 think about a distribution of potential
7 days. And so I assumed that when we see
8 typical, that we're going to assume that
9 that means average.

10 Q. Is it possible that that
11 assumption is not correct, that -- and that
12 in fact, the information provided about a
13 typical day does not represent the average
14 instructional day?

15 A. It should be pretty close.
16 You know, again, I don't have any basis to
17 evaluate and so I don't have -- I can't go
18 to some, you know, complete measure of each
19 person's actual time use and then say, when
20 we ask you about your typical day in the
21 context, does it match the true
22 distribution of your observed actual time?
23 I can't do that. But it's pretty common in
24 my world when you see usual or typical to
25 make the inference that when somebody says

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1 they usually work 40 hours a week, they're
2 meaning that they work 40 hours a week on
3 average.

4 Q. And so I understand this
5 distinction between typical and average.
6 In the example you just gave, someone may
7 say in the typical week, I work 40 hours a
8 week, because that's what I work 80 percent
9 of weeks. But if you actually drill down
10 and accounted for holidays and vacations,
11 the person's average workweek is in fact
12 less than 40 hours?

13 A. Or more. You know, usually
14 we don't put holidays and vacations in,
15 because we ask you about non-holiday weeks,
16 but, like, if you're saying, yeah, if we
17 wanted to include that in the measure,
18 then, yeah, you want some sense of the full
19 distribution, right? Sometimes I work 43,
20 sometimes I work 37, right, but, typically,
21 I say 40, right.

22 Q. And so in this case, when Mr.
23 Klein asked teachers how much time they
24 spend in their typical day, your hypothesis
25 is that the teacher is probably responding

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1 in relation to the usual school day where
2 they're just teaching classes and it is not
3 relating to something like a day where
4 there's a field trip, for example?

5 MR. GRADEN: Objection. Form.

6 THE WITNESS: Yeah, they're
7 trying to get to some, you know,
8 the measure of central tendency,
9 right? Like, you know, the thing
10 that, you know, if you imagine a
11 distribution of time, right, you
12 know, probably looks something like
13 a bell curve, right, my assumption
14 is that they're getting somewhere
15 in the middle of that.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. And you are not offering the
18 opinion that Klein's survey results for the
19 typical day in fact provide a correct
20 approximation of the time lost in the
21 average instructional day, correct?

22 MR. GRADEN: Objection.

23 THE WITNESS: I mean, we don't
24 have the data to, in fact, prove
25 that. I'm just doing what's

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1 typical and common when you have
2 questions about typical or usual
3 time to assume that it's a
4 reasonable approximation for the
5 average.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. Are you offering the opinion
8 that Klein's survey results for the typical
9 day in fact provide a correct approximation
10 of the time lost in the average
11 instructional day?

12 A. Say that again.

13 Q. Are you in fact -- sorry, let
14 me start that again.

15 Are you offering the opinion
16 that Klein's survey results for the typical
17 day in fact provide a correct approximation
18 of the time lost in the average
19 instructional day?

20 A. That's what I'm assuming,
21 yes.

22 Q. It's an assumption you're
23 offering?

24 A. Yes.

25 Q. The Klein teacher time survey

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1 required teachers to estimate how much time
2 they spent in a typical day addressing
3 student use of social media going back one
4 year, four years, five years, and ten
5 years, correct?

6 MR. GRADEN: Objection. Form.

7 THE WITNESS: Correct.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. You are not offering an
10 opinion on whether it's possible for survey
11 respondents to accurately estimate how much
12 time they spent addressing student use of
13 social media in a typical day going back
14 years before taking the survey, correct?

15 A. That's Mr. Klein's opinion.
16 I'm relying on him to -- I'm relying on his
17 expertise to have designed the survey so
18 that those are accurate, reliable data
19 points.

20 Q. And you yourself are not
21 offering the opinion that it is possible
22 for survey respondents to accurately
23 estimate how much time they spent
24 addressing student use of social media in a
25 typical day going back years before taking

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1 the survey, correct?

2 A. I am not offering that
3 specific opinion as part of my reports.

4 Q. Have you ever previously used
5 someone's estimate of how much time they
6 spent on an activity years before providing
7 the estimate?

8 A. Yes.

9 Q. In what context?

10 A. So kind of graduate school to
11 my post-doc, I worked on this thing called
12 the Harvard and Beyond study and we asked
13 questions retrospectively to people who
14 graduated from Harvard or Radcliffe from,
15 like, four-year increments from 1969 to
16 maybe 2000 -- or maybe 1992, I can't
17 remember. All right. And in that survey
18 we asked people questions about what they
19 did while they were in college. We asked
20 questions about how many hours they worked
21 when they first got out of college. So,
22 yeah, I've certainly used questions that
23 ask people about time use over very long
24 periods.

25 Q. So you asked people to report

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1 how many -- you asked people at one point
2 in time to report based on how much time
3 they spent working years before taking the
4 survey?

5 A. Yes, so taking a survey in
6 2006, we were asking them at the oldest
7 cohorts to effectively describe things that
8 were happening in 1969 or '70.

9 Q. And what specific time
10 estimates were you asking people to
11 provide?

12 A. Oh, so I know that we asked
13 them about how many hours they worked and
14 what jobs they had. If you had kids at
15 some point, like, we would ask what year
16 did you have a kid, and we would ask
17 similar questions about work and change in
18 work. But I also think we asked questions
19 about, if not the precise value, the
20 distribution of housework in the household
21 at that time. We asked questions about
22 activity participation while in college.
23 You know, I can't remember everything that
24 we asked in that survey, but --

25 Q. When you asked about work

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1 time, you asked for a total number of hours
2 worked per week?

3 A. Usual hours worked per week.

4 Q. Did you ask for any more
5 granular information about how people spent
6 their workdays?

7 A. Not in that survey that I
8 recall. Maybe it's in there, I don't
9 remember.

10 Q. Did you do anything to
11 validate in your work on this Harvard and
12 Beyond survey that the recalled estimates
13 of time spent years prior were in fact
14 accurate?

15 A. I don't remember. I was
16 there largely through data collection. I
17 then moved on for most of data analysis.

18 Q. But sitting here today,
19 you're not aware of anything that was done
20 in your work on the Harvard and Beyond
21 survey to validate that the recalled
22 estimates of time spent years prior were in
23 fact accurate, correct?

24 A. Not that I recall, but --

25 Q. Are the results of that

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1 survey published?

2 A. Yeah, I think there's a
3 journal -- an article in the American
4 Economic Review.

5 Q. Are you an author on that?

6 A. No, no, I was just kind of a
7 grunt helping put the data together.

8 Q. And for what purpose was that
9 information, specifically estimates of time
10 spent working years prior used?

11 A. So the principals on that
12 project are Nobel Prize winner Claudia
13 Goldin and Larry Katz and the motivation
14 for the project was, they were interested
15 in understanding long-term labor dynamics
16 of people who attended elite institutions,
17 right? So we were at Harvard, so we did
18 Harvard. And so part of what they were
19 trying to understand is how does the
20 trajectory of work-life change over time,
21 in particular, comparing men to women both
22 across cohorts, but then also as you span
23 ages. And so the reason for asking about
24 usual hours worked is to understand, well,
25 when they first got out of college, did men

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1 and women pursue different jobs? Did they
2 pursue jobs that had different hours? And
3 that is what essentially they find, right,
4 is that there's some differences in -- I
5 guess the term they eventually landed on
6 is, you know, pursuit of greedy jobs that
7 are, you know, very time intensive and time
8 inflexible. And so that was, that is one
9 of the purposes for which we used the
10 survey or they used the survey.

11 Q. In the Harvard and Beyond
12 survey, the estimates of hours worked years
13 prior to taking the survey were not used as
14 part of a damages calculation, correct?

15 A. No, that was an academic
16 endeavor.

17 Q. And have you ever previously
18 used someone's estimate of time spent years
19 before taking a survey as part of a damages
20 estimate?

21 A. I don't think I've ever had
22 occasion to.

23 Q. When a student is using a
24 cell phone in class, a teacher would not
25 necessarily know what the student is doing

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1 on the cell phone, correct?

2 MR. GRADEN: Objection.

3 Foundation.

4 THE WITNESS: I have no idea.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. You just don't know at all?

7 A. No, I don't know what
8 teachers do with -- I did not go to school
9 with cell phones, so I don't know how the
10 process goes down.

11 Q. Do you think it's possible
12 that every time a student is using a cell
13 phone in class, the teacher knows exactly
14 what the student is doing on the cell
15 phone?

16 MR. GRADEN: Objection.

17 Foundation.

18 THE WITNESS: It's possible
19 that they wouldn't know, but I
20 don't know the level or frequency.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. There is a risk that if
23 teachers are asked to estimate how much
24 they spend addressing unauthorized use of
25 social media during class that they may

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1 speculate about how much of the time they
2 spent addressing student use of cell phones
3 during class is related to social media,
4 correct?

5 MR. GRADEN: Objection.

6 Vague. Foundation. Form.

7 THE WITNESS: Say it again.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. There is a risk that if
10 teachers are asked to estimate how much
11 time they spend addressing unauthorized use
12 of social media during class, that they may
13 speculate about how much of the time that
14 they spend addressing student use of cell
15 phones is related to social media, correct?

16 MR. GRADEN: Objection stands.

17 THE WITNESS: I mean, lots of
18 things are possible. I have no
19 idea of the likelihood. You know,
20 as we went through, there's lots of
21 ways that you can, you know,
22 introduce inaccuracies into
23 surveys. I'm going to trust that
24 Mr. Klein has at least thought of
25 these issues as part of his

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1 assignment.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. But you're not aware of
4 either yourself or Dr. Klein doing anything
5 to address the possibility of speculation
6 in that context, correct?

7 MR. GRADEN: Objection. Form.

8 THE WITNESS: I was not
9 involved in the discussions that
10 led to the creation of the survey
11 with Mr. Klein. I certainly didn't
12 do anything with it, because it's
13 not part of my assignment.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. There are a large number of
16 factors that can cause a student to suffer
17 from mental health issues like anxiety or
18 depression, correct?

19 MR. GRADEN: Objection.

20 Scope.

21 THE WITNESS: Again, I don't
22 know what the exact sources of
23 anxiety and depression are, but I
24 assume that there are not one
25 cause.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. A school teacher is not
3 qualified to diagnose mental health issues,
4 correct?

5 MR. GRADEN: Objection.
6 Vague.

7 THE WITNESS: I have no idea
8 whether or not that's part of
9 teacher training.

10 BY MR. SANDOVAL-BUSHUR:

11 Q. You think it's possible that
12 a middle school teacher is qualified to
13 diagnose mental health issues in students?

14 A. What's the definition of a
15 mental health issue?

16 Q. Let's say clinical
17 depression. Is a middle school teacher
18 qualified to diagnose clinical depression
19 in a student?

20 A. I don't know. But once you
21 move into some sort of specific clinical
22 diagnosis, I don't know. I would assume
23 they are not trained clinically, but who
24 knows where education is these days. I
25 haven't been in school for a while.

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1 Q. Is a school teacher qualified
2 to diagnose addiction?

3 MR. GRADEN: Objection. Asked
4 and answered.

5 THE WITNESS: It's the same
6 answer. I don't know whether or
7 not they're qualified or not.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. There are a number of
10 different factors that could cause a
11 student to suffer from sleep deprivation,
12 correct?

13 A. Again, I don't know what the
14 causes of sleep deprivation are, I would be
15 willing to accept that there's probably
16 more than one.

17 Q. Can a teacher, a school
18 teacher, accurately and reliably diagnose
19 the cause of a student suffering from sleep
20 deprivation?

21 MR. GRADEN: Objection.
22 Vague.

23 THE WITNESS: Again, I don't
24 know how accurate a school teacher
25 can be in diagnosing this type of

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1 thing, because, yeah, I don't know,
2 never studied it.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. For purposes of your work in
5 this case, you have not reviewed any data
6 or information relating to whether school
7 teachers can accurately diagnose the causes
8 of any mental health issues or disorders,
9 correct?

10 MR. GRADEN: Object to form.

11 THE WITNESS: Yes, I have not
12 reviewed any information on school
13 teacher powers when it comes to
14 assessing mental health issues.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. Did the Klein teacher time
17 survey suggest time amounts to the school
18 district employees and then ask the
19 employees to provide time estimates?

20 MR. GRADEN: Objection.

21 THE WITNESS: I have no
22 recollection of that.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. When you are conducting
25 research in which you ask someone to

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1 estimate how much time they spend on an
2 activity, is it best practice to present
3 that person with suggestions of time and
4 then ask the person to estimate how much
5 time they spent on the activity?

6 MR. GRADEN: Objection.
7 Scope. Form.

8 THE WITNESS: Again, I'm not
9 an expert in survey design. I do
10 not know what the best practices
11 are when it comes to asking people
12 time questions.

13 BY MR. SANDOVAL-BUSHUR:

14 Q. If, in your academic work,
15 you were presented with the results of a
16 survey that was conducted by presenting
17 someone with suggested time estimates for
18 an activity and then asking the person to
19 estimate the amount of time they spend on
20 that activity, would you have any concern
21 that the results of that survey might be
22 biased?

23 MR. GRADEN: Objection to
24 form.

25 THE WITNESS: I would need to

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1 see the actual survey as well as
2 the data.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. Are you familiar with the
5 concept of anchoring?

6 A. I mean, I could not define it
7 precisely, but I am familiar with the idea.

8 Q. And the idea of anchoring is
9 that if you provide somebody with a
10 suggested answer and then ask them to give
11 their own answer to a question, the answer
12 that the person gives may be anchored to
13 the suggestion that was provided to them,
14 correct?

15 A. I believe that's the concept
16 that it's measuring.

17 Q. And that's a real phenomenon
18 in social sciences, correct?

19 MR. GRADEN: Objection.
20 Foundation.

21 THE WITNESS: I do not -- I
22 mean, presumably, it exists
23 somewhere because there's a term
24 for it. I don't know the extent to
25 which it happens.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. I mean, it's also kind of
3 common sense, right, that if you provide
4 someone with a suggested answer to a
5 question and then ask them to provide the
6 answer that their response may be
7 influenced in some way by the suggested
8 answer that was provided?

9 MR. GRADEN: Objection.

10 THE WITNESS: I'm sorry, what
11 do you mean by, "suggested answer"?

12 BY MR. SANDOVAL-BUSHUR:

13 Q. So if someone were to suggest
14 to a school employee, you maybe spend
15 50 percent of your day addressing issues
16 relating to social media and then asked the
17 employee to estimate what percentage of
18 their day they spend addressing issues
19 relating to social media, do you think that
20 providing the estimate, the suggested
21 estimate, may influence the response that
22 they provide?

23 MR. GRADEN: Objection to
24 form. Foundation.

25 THE WITNESS: I have no idea.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. You don't know?

3 A. I mean, the way you phrased
4 it, I can't imagine anybody would actually
5 phrase it that way. You know, so, but,
6 yeah, I don't -- I don't know.

7 Q. Why can you not imagine that
8 someone would phrase it that way?

9 A. Why would you say you may
10 spend 50 percent of your time on social
11 media, how much time do you spend on social
12 media?

13 Q. Well, you wouldn't do it
14 because it wouldn't be a good way of
15 gathering accurate information, correct?

16 A. Typically, when you see some
17 sort of suggestion, you know, it might be
18 helping you understand units, right? So
19 that's -- you know, so I don't, you know,
20 it's -- I have never encountered a question
21 that was phrased the way that you just
22 phrased that to me. So it just rang in my
23 ears as I don't even -- that would never,
24 in my opinion, seem like something that I
25 would read in a survey. So, but no, I

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1 don't have any opinion. I mean,
2 ultimately, when you want to understand
3 anchoring, I'm sure you go to a literature
4 and you would, you know, say, okay, let me,
5 you know -- or if you're a student and you
6 want to understand this, you would go to
7 literature and would say, okay, help me
8 understand these things and now I'm going
9 to go off and, you know, do surveys. I'm
10 assuming that Mr. Klein understands these
11 issues and has addressed them.

12 Q. Are there any limitations
13 associated with relying on employee
14 affidavits or declarations for the purposes
15 of your damages estimates?

16 MR. GRADEN: Objection.

17 THE WITNESS: I'm comfortable
18 relying on the information that I
19 was provided by sworn testimony
20 under oath by people who may or may
21 not have been deposed to further
22 evaluate the veracity of their
23 testimony.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. If you were going to publish

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1 your damages estimates in a peer-reviewed
2 journal, would you identify any limitations
3 relating to your reliance on employee
4 affidavits?

5 MR. GRADEN: Objection.
6 Vague.

7 THE WITNESS: Sworn
8 affidavits, I can't think of
9 anything that I would, you know,
10 say, oh, we have to talk about this
11 necessarily, no.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. You relied on affidavits that
14 were provided by employees from Breathitt,
15 Charleston, DeKalb -- actually, let me ask
16 that question a little differently.

17 You relied on the affidavits
18 that were provided by employees from
19 Breathitt, Charleston, Irvington, and
20 Tucson without speaking with any of those
21 employees, correct?

22 A. That's correct.

23 Q. You relied on the affidavits
24 that were provided by employees from
25 Breathitt, Charleston, Irvington, and

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1 Tucson without first having read or seen
2 any deposition testimony from those
3 employees, correct?

4 A. I think all the depositions
5 came afterwards.

6 Q. You relied on the deposition
7 testimony that was provided by employees
8 from Harford without speaking with any of
9 those employees, correct?

10 A. That's correct.

11 Q. Do you know what process any
12 of the school employees who issued
13 affidavits used to arrive at their
14 estimates?

15 A. Certainly the ones that are
16 described in the depositions that have
17 taken place since. I feel like some, if
18 not all, of those do describe the methods
19 that they went through. Sometimes I feel
20 like it might actually have been included
21 in the affidavits. I don't recall all of
22 the specifics, but I felt comfortable that
23 these were the people that have the
24 knowledge and that certainly after reading
25 the depositions, that they had gone through

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1 a reasonable process to elicit the relevant
2 information for my testimony.

3 Q. To the extent you were
4 relying on -- you're relying now on what
5 was said in depositions, you did not deem
6 that information necessary to rely on the
7 affidavits for Breathitt, Charleston,
8 Irvington, and Tucson when you initially
9 issued your reports in this case, correct?

10 A. Sorry, say that again.

11 Q. Yeah, I'll move on. It was
12 not part of your assignment in this case to
13 determine whether the employees who issued
14 affidavits in this case used a reasonable
15 process to arrive at their time estimates,
16 correct?

17 MR. GRADEN: Objection.

18 THE WITNESS: State it again.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. It was not part of your
21 assignment in this case to determine
22 whether the employees who issued affidavits
23 used a reasonable process to arrive at
24 their time estimates, correct?

25 A. No, I did not set out some

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1 standard of, you know, these are the
2 details of their process and it's
3 reasonable. I trusted that they engaged in
4 a reasonable process because they are
5 providing sworn testimony.

6 Q. You trusted that the
7 employees who issued affidavits engaged in
8 a reasonable process, but you didn't
9 actually verify that they, in fact, used a
10 reasonable process, correct?

11 MR. GRADEN: Objection.

12 THE WITNESS: I don't know
13 what I have -- I don't have a
14 definition of, quote, "reasonable
15 process" that I would require them
16 to go through. My assumption is I
17 believe it's reasonable for me to
18 rely on their data because they are
19 people with the right -- in the
20 positions where they would have
21 knowledge or have access to people
22 with knowledge. They were
23 providing testimony as part of this
24 litigation, sworn testimony, that I
25 understood that you all would have

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1 the opportunity to depose them, if
2 I hadn't already read those
3 depositions under which, you know,
4 their testimony would receive
5 additional scrutiny. So I felt
6 comfortable that it was reasonable
7 for me to rely upon.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. Are you aware that the
10 employees who issued affidavits did not
11 review data to ensure that their time
12 estimates were accurate?

13 MR. GRADEN: Objection,
14 foundation.

15 THE WITNESS: What do you mean
16 they didn't review data?

17 BY MR. SANDOVAL-BUSHUR:

18 Q. I'm not sure how much more I
19 can be clear than to say reviewed any data.
20 Are you aware that the employees who issued
21 affidavits did not review any data to
22 ensure that their time estimates were
23 accurate, correct?

24 MR. GRADEN: Objection.
25 Foundation.

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1 THE WITNESS: What data are
2 they not reviewing or reviewing?

3 BY MR. SANDOVAL-BUSHUR:

4 Q. To your knowledge, did any of
5 the employees who issued affidavits review
6 any data to ensure that their time
7 estimates were accurate?

8 A. I feel like I recall them in
9 depositions talking about, you know, they
10 spoke with other people, that's data,
11 right? Like, when I'm talking to you,
12 that's data, you're providing me data,
13 right? They also may have looked at
14 incident reports, that's data. Or other
15 systems that they're tracking, I can't
16 remember everything that's all across it,
17 but I do recall some of the depositions
18 where I feel like they said, yeah, we
19 looked at some things, we got together, we
20 talked about stuff. So that's what I mean
21 by what's data, right? Like, you know,
22 what is your definition of data? Like,
23 certainly, they assembled information, and
24 a different word for assembling information
25 is assembling data.

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1 Q. Okay. I'll define data to
2 mean some sort of documentary records,
3 okay? Using that definition of data, are
4 you aware that many of the employees who
5 issued affidavits did not consult any data
6 to ensure that their time estimates were
7 accurate?

8 MR. GRADEN: Objection.
9 Foundation.

10 THE WITNESS: I have not read
11 the deposition of everybody who has
12 provided affidavits, so I certainly
13 couldn't agree to anything about
14 many. But -- and I don't recall
15 all of the details of each
16 deposition off the top of my head,
17 so I don't know to what extent any
18 of them looked at quantitative
19 records. I just know that I feel
20 like something of that nature came
21 up in some of them.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. For your purposes for you to
24 rely on the employee affidavits and
25 deposition testimony, you did not require

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1 that the employee have reviewed any sort of
2 documentary data records before providing
3 their estimate, correct?

4 A. No, I don't think that's a
5 requirement for being able to provide an
6 estimate of time.

7 Q. And for your purposes for you
8 to rely on the employee affidavits and
9 deposition testimony, you did not require
10 that the employees have relied on any
11 particular form of information at all in
12 reaching their estimates, correct?

13 MR. GRADEN: Objection. Asked
14 and answered.

15 THE WITNESS: I required no
16 specific information. I trusted
17 that, again, that they were people
18 in positions where they would be
19 able to directly or access the
20 knowledge and information to
21 provide an estimate under oath in
22 this case.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. And what is your basis for
25 trusting that the people who provided

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1 affidavits provided accurate information?

2 MR. GRADEN: Objection. Asked
3 and answered.

4 THE WITNESS: Again, they're
5 providing sworn testimony as part
6 of a lawsuit.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. So because they sign sworn
9 affidavits, it's your opinion that the
10 information provided in those affidavits is
11 therefore trustworthy?

12 A. You know, particularly once
13 they've gone through a deposition and, you
14 know, presumably provided a defense of
15 their approach. Now, look, you know, I'm
16 relying on them. I have no basis to
17 believe that they provided me inaccurate
18 data.

19 Q. You are not vouching for the
20 accuracy of the time estimates provided in
21 any employee affidavit or deposition,
22 correct?

23 A. No, I'm vouching for the
24 reasonableness of me relying on it because
25 of all of the things we've just discussed.

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1 Q. Is it your understanding that
2 Plaintiffs' attorneys suggested time
3 estimates to employees who ultimately
4 issued affidavits and then asked the
5 employees to estimate time?

6 MR. GRADEN: Objection. Lacks
7 foundation.

8 THE WITNESS: I have no idea.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. It doesn't lack foundation,
11 but that's okay.

12 Suggesting time estimates to
13 an employee and then asking the employee to
14 estimate time could create a risk of
15 biasing the employees' estimates towards
16 the suggestions, correct?

17 A. Maybe, I don't know.

18 Q. For time estimates for
19 non-teacher employees, you relied on
20 estimates provided by just a few people per
21 district, correct?

22 A. Typically, yeah.

23 Q. I think between two and six,
24 depending on the district; is that right?

25 A. I think that's right.

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1 Q. The people whose time
2 estimates you relied on for non-teacher
3 employee time were selected by Plaintiffs'
4 attorneys, correct?

5 A. I don't know who selected
6 them.

7 Q. You did not identify the
8 people who you thought should provide time
9 estimates and then ask Plaintiffs'
10 attorneys to get time estimates from those
11 people, correct?

12 A. No, I did not identify the
13 specific people.

14 Q. Plaintiffs' attorneys just
15 presented you with affidavits saying here
16 are the people who we have time estimates
17 from from each of the districts, correct?

18 MR. GRADEN: Objection.

19 THE WITNESS: Yeah, I didn't
20 select them. I received the
21 affidavits from whoever was
22 selected by whoever.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. But the affidavits were
25 provided to you by Plaintiffs' attorneys,

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1 correct?

2 A. That is correct.

3 Q. You do not know why
4 Plaintiffs' attorneys selected which
5 employees would provide affidavits and
6 which would not, correct?

7 MR. GRADEN: Objection.
8 Foundation.

9 THE WITNESS: No, I don't know
10 why, other than that the people
11 that ultimately provided them,
12 frequently, they're supervisors or
13 people who have reasonable
14 knowledge, but that's my inference,
15 not based on somebody telling me
16 this is why we selected this
17 person.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. And you do not know how your
20 damages estimates may have changed if
21 Plaintiffs' attorneys had selected
22 additional employees to provide affidavits,
23 correct?

24 MR. GRADEN: Objection.
25 Vague.

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1 THE WITNESS: I don't know
2 what other data would have changed,
3 because we don't have that data.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. And you do not know how your
6 damages estimates would have changed if
7 Plaintiffs' attorneys had selected
8 different employees to provide affidavits,
9 correct?

10 MR. GRADEN: Objection. Asked
11 and answered.

12 THE WITNESS: I can't -- you
13 know, no, I cannot describe what
14 exists in data that we don't have.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. It is entirely possible that
17 if Plaintiffs' attorneys had provided you
18 with affidavits from additional or
19 different employees, then your damages
20 estimates would be lower, correct?

21 MR. GRADEN: Objection.

22 THE WITNESS: Or they could be
23 higher or they could be the same.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. It's pretty unlikely that if

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1 the Plaintiffs' attorneys had gotten more
2 declarations from more employees that they
3 all would have contained the exact same
4 estimates, correct?

5 MR. GRADEN: Objection.

6 Foundation.

7 THE WITNESS: I don't know.

8 Maybe.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. The job roles of the
11 employees submitting the affidavits were
12 not identical across the six bellwether
13 districts in which you're offering
14 opinions, correct?

15 A. No, I feel like there's
16 variation in the positions that are in
17 there.

18 Q. Do you know why the positions
19 of the employees submitting affidavits were
20 not consistent across all of the districts
21 in which you are offering opinions?

22 A. I don't. I'm just assuming
23 it has to do with differences in how they
24 organize work across positions in a
25 district.

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1 Q. Do you know, for example, why
2 in some districts you got estimates of how
3 much time principals spent addressing
4 social media issues and in other districts,
5 you did not get such estimates?

6 A. No, I took what was provided
7 to me, most of them were principals,
8 though.

9 Q. But you didn't ask why you
10 got some positions for some districts and
11 different positions for other districts?

12 A. No, you know, I took what --
13 I assumed that they got the affidavits from
14 the people that were the relevant parties
15 for -- from the perspective of that
16 district.

17 Q. In forming your opinions, did
18 you consider the possibility that
19 Plaintiffs' attorneys may have provided you
20 with affidavits only from employees who
21 estimated larger amounts of time spent
22 addressing student use of social media and
23 did not provide you with affidavits from
24 employees who estimated lower amounts of
25 time spent addressing student use of social

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1 media?

2 MR. GRADEN: Objection.

3 Foundation.

4 THE WITNESS: I got the
5 affidavits that I got. I don't
6 know -- I don't know anything about
7 any non -- you know, any affidavit
8 that I did not see.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. The estimates of non-teacher
11 employee time would have been more accurate
12 if you had received estimates from more
13 than just a few people per district,
14 correct?

15 MR. GRADEN: Objection.

16 Foundation.

17 THE WITNESS: Not necessarily,
18 no.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. The estimates of non-teacher
21 time that you used in your calculations
22 could have been more accurate if you had
23 received estimates from more than just a
24 few people per district, correct?

25 A. Maybe. I mean, again, you

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1 know, sample size speaks to precision, not
2 necessarily accuracy.

3 Q. The employees offering
4 estimates of non-teacher employee time
5 spent addressing social media issues did
6 not limit their estimates to just their own
7 time, correct?

8 A. That's correct.

9 Q. The employees who provided
10 estimates of non-teacher employee time
11 offered estimates of the amount of time
12 that other employees spent addressing
13 social media-related issues, correct?

14 MR. GRADEN: Objection.

15 THE WITNESS: That's correct.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. And you relied on the
18 estimates that employees offered of the
19 amount of time that other employees spent
20 addressing social media-related issues,
21 correct?

22 MR. GRADEN: Objection.

23 THE WITNESS: That's correct.

24 Their assignment was to summarize
25 the time spent by not just

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1 themselves, but whatever employees
2 they were tasked with covering.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. The employees who provided
5 estimates of non-teacher employee time
6 offered estimates of the amount of time
7 that other employees who worked in
8 different buildings from themselves spent
9 addressing social media-related issues,
10 correct?

11 MR. GRADEN: Objection.
12 Foundation.

13 THE WITNESS: Potentially.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. The employees who provided
16 estimates of non-teacher employee time
17 offered estimates of the amount of time
18 that other employees who they did not
19 directly or indirectly supervise spent
20 addressing social media-related issues,
21 correct?

22 MR. GRADEN: Objection.
23 Foundation.

24 THE WITNESS: Potentially.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. And for purposes of your
3 opinions in this case, it didn't matter
4 whether the employees who provided
5 estimates of non-teacher employee time
6 offered estimates of the amount of time
7 that employees who they did not directly or
8 indirectly supervise spent addressing
9 social media-related issues, correct?

10 A. No. I mean, it's perfectly
11 reasonable to assume that somebody can
12 assemble the information. I don't have to
13 be directly supervising you to be able to
14 kind of learn about how much time is being
15 spent. I mean, this is what, you know, we
16 learn all sorts of things about our
17 colleagues. I don't have to directly
18 supervise or work in the same building with
19 you to know things about you.

20 Q. Is it your understanding that
21 the time estimates in the employee
22 affidavits are not based on the affiant's
23 personal historical experience, but instead
24 based on information specifically gathered
25 by the affiant for the purpose of

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1 submitting the affidavit?

2 MR. GRADEN: Objection to
3 form.

4 THE WITNESS: I believe in
5 some cases, that is true.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. The employees who provided
8 estimates of non-teacher employee time
9 spent addressing social media issues
10 offered estimates of the amount of time
11 that other employees who they had never
12 spoken to spent addressing social
13 media-related issues, correct?

14 MR. GRADEN: Objection.
15 Foundation.

16 THE WITNESS: Possibly, I
17 don't know.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. And whether or not the
20 employees providing the affidavits
21 estimated the amount of time that employees
22 who they had never spoken to spent
23 addressing social media-related issues did
24 not affect one way or the other your
25 reliance on those estimates, correct?

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1 A. It's perfectly reasonable to
2 assume that you can collect information
3 from a broad swath of the population
4 without ever directly speaking to
5 everybody.

6 Q. You are not offering the
7 opinion that the estimates that employees
8 provided in affidavits or deposition
9 testimony of how much time other employees
10 spent addressing social media-related
11 issues are reliable or accurate, correct?

12 A. I am not testifying to their
13 reliability or accuracy. I am assuming
14 their reliability and accuracy as a
15 reasonable part -- thing for me to use as
16 part of my calculation.

17 Q. In your academic work outside
18 of litigation, have you ever drawn
19 conclusions based on one employee's
20 estimate of how another employee who worked
21 in a different building spent their day?

22 MR. GRADEN: Objection. Form.

23 THE WITNESS: I don't think
24 I've ever had any occasion to make
25 that specific --

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Did you ever ask why the
3 Klein survey was not simply administered to
4 all of the categories of non-teacher
5 employees who were ultimately covered by
6 the affidavits?

7 A. I don't remember if that ever
8 came up.

9 Q. For the employees whose
10 estimates of nonemployee time spent
11 addressing social media-related issues you
12 relied on, you do not know how those
13 employees defined social media, correct?

14 MR. GRADEN: Objection.
15 Foundation.

16 THE WITNESS: To the extent
17 that they define it in their
18 affidavits or in their depositions,
19 then presumably, I have it. I also
20 assume, again, because they're
21 providing an affidavit specific to
22 this litigation that they have
23 defined it consistent with the
24 definition that is appropriate for
25 this case.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. That's an assumption you
3 can't -- you're not saying that's in fact
4 true, correct?

5 MR. GRADEN: Objection.

6 THE WITNESS: Sorry, what is
7 not in fact true?

8 BY MR. SANDOVAL-BUSHUR:

9 Q. You are not saying it is in
10 fact true that the employees who issued the
11 affidavits defined social media consistent
12 with the definition that is appropriate for
13 this case, correct?

14 A. To the extent that they
15 describe that in their affidavits or in
16 their depositions, then if they have
17 described it there, then, yes, I can tell
18 you that it is. To the ones that I have --
19 that they don't expressly state it in their
20 affidavit or they have not been deposed, I
21 can only assume based on the fact that it
22 is an affidavit in a particular lawsuit
23 that they have defined it in a way that is
24 consistent with the lawsuit.

25 Q. What is the definition of

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1 social media that is appropriate for this
2 case?

3 MR. GRADEN: Objection.
4 Scope.

5 THE WITNESS: I couldn't tell
6 you off the top of my head. I
7 believe that there's YouTube,
8 Facebook, Instagram, TikTok, and
9 SnapChat. I believe those are the
10 companies at issue. But I don't --
11 you know, but all the conduct, so
12 there's the Defendants and their
13 conduct, I couldn't tell you all
14 the conduct off the top of my head.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. So you have assumed that the
17 employees who issued affidavits define
18 social media in a way that was consistent
19 with the lawsuit, but you personally are
20 not sure of what definition exactly would
21 be consistent with the lawsuit; is that
22 right?

23 MR. GRADEN: Objection.

24 THE WITNESS: I mean, you
25 know, like I said, there are

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1 details of this definition that I
2 certainly cannot provide you right
3 here right now, because, honestly,
4 it's pretty far removed from what
5 I'm doing in my part of the
6 calculation. So it's not something
7 that I have been reviewing on a
8 regular basis.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. You have spent somewhere on
11 the order of four to 500 hours working on
12 this case, correct?

13 A. We can sit here and try and
14 calculate it.

15 Q. Well, you have worked several
16 hundred hours on this case, correct? I
17 mean, we talked about earlier you worked 20
18 hours a day for ten days straight?

19 A. Yeah, okay. Yeah.

20 Q. So you have worked several
21 hundred hours on this case, correct?

22 A. Yup.

23 Q. But you do not have a
24 definition for what is social media that is
25 consistent with the lawsuit sitting here

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1 today, correct?

2 MR. GRADEN: Objection.

3 Misstates testimony.

4 THE WITNESS: Not off the top
5 of my head, as I sit here right
6 now. Like, you know, I can only
7 speak in pretty broad general terms
8 because, again, as I mentioned,
9 it's not a particularly relevant
10 thing for the part of the
11 calculation that I am doing.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. But you are assuming that
14 every single employee who issued an
15 affidavit did in fact both have a
16 definition of social media that was -- and
17 had a definition that was appropriate for
18 this lawsuit, correct?

19 MR. GRADEN: Objection. Form.

20 THE WITNESS: I mean, that's
21 part of their assignment, right?
22 Like, I mean, I don't need to walk
23 around with that in my head,
24 because I'm, again, I'm assuming
25 that they have done their

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1 assignment in a manner that is
2 appropriate for my calculation. My
3 calculation says, great, there's
4 time loss. That's all a time loss
5 question. My job is to say what's
6 the value of that time? I don't
7 need a definition of social media
8 or at-issue conduct to be able to
9 do that and perform that
10 calculation.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. And what is your source of
13 belief that the employees who issued
14 affidavits had as part of their assignment
15 understanding what the appropriate
16 definition of social media was for this
17 lawsuit?

18 A. Logic.

19 Q. Okay. But you haven't seen,
20 you're not aware of actual facts that the
21 employees who issued affidavits had as part
22 of their assignment, understanding and
23 applying an appropriate definition of
24 social media for purposes of this lawsuit,
25 correct?

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1 MR. GRADEN: Objection.

2 THE WITNESS: Again, to the
3 extent that it's covered in their
4 affidavit or in their depositions,
5 then I have basis for that. But,
6 like, I'm answering the same
7 question again, right? But no, I
8 did not sit down with them and say,
9 please describe the definition of
10 what you're using in this term.
11 That's not for me to do, right?
12 Like, the fact that I was provided
13 it, it's perfectly reasonable for
14 me to believe that that is true.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. And you are not able to
17 assess whether based on what is in an
18 affidavit or in a deposition the employee
19 used the appropriate definition of social
20 media for purposes of this lawsuit, because
21 you are not sure what that definition is
22 yourself, correct?

23 MR. GRADEN: Objection.

24 Misstates testimony. Form.
25 Foundation.

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1 THE WITNESS: I'm not sure of
2 it as I sit here right now. At
3 some point, I was aware of it.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. You don't say what that
6 definition is in your reports, correct?

7 A. No, again, it's not something
8 that is integral to my portion of this
9 calculation.

10 Q. So it was not integral for
11 your portion of the calculation to know
12 what exactly was supposed to be being
13 measured, correct?

14 MR. GRADEN: Objection.
15 Misstates testimony.

16 THE WITNESS: Again, that's
17 time loss. I'm doing value of
18 time, right? As we talked about
19 earlier, I make no claim that
20 social media use or social media
21 has changed the value of time
22 relative to its but-for world,
23 right? I'm here assembling data,
24 right, and applying it to time loss
25 estimates that I was provided by a

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1 survey expert and by a bunch of
2 affiants who are in positions where
3 they should have knowledge of these
4 issues and to the extent that
5 they've described them in their
6 affidavits or their depositions, I
7 found it perfectly reasonable the
8 way they approached it. Like, I
9 don't need to know at all points in
10 time the ins and outs of the
11 definitions that are relevant for
12 them to do their calculations,
13 right, to be able to say I can
14 trust that they should have done
15 that. It's reasonable for me to
16 assume that.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. It was not part of your
19 assignment in this case to determine that
20 the Klein teacher time survey, the employee
21 affidavits, or the employee testimony
22 measured the right thing, correct?

23 MR. GRADEN: Objection. Form.
24 Foundation.

25 THE WITNESS: I am taking

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1 their statements. They are
2 witnesses. They can speak for
3 themselves.

4 BY MR. SANDOVAL-BUSHUR:

5 Q. Was it part of your
6 assignment in this case to determine that
7 the Klein teacher time survey, the employee
8 affidavits, and the employee testimony
9 measured the right thing?

10 MR. GRADEN: Objection.

11 THE WITNESS: No, my
12 assignment was to take those things
13 as given and apply the value of
14 time to them.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. Is it possible that when
17 employees referred to social media in their
18 affidavits that they included websites and
19 apps other than Defendants' websites and
20 apps?

21 MR. GRADEN: Objection.

22 Foundation.

23 THE WITNESS: You asked this
24 before, but is it possible,
25 anything is possible. Does it seem

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1 likely or reasonable, probably
2 unlikely.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. For the employees --

5 A. Can we actually pause? It
6 has been, like, an hour and a half. I
7 would like to stretch out.

8 MR. SANDOVAL-BUSHUR: Sure.
9 We can take a break. Go off the
10 record.

11 THE VIDEOGRAPHER: Going off
12 video record 3:28 p.m.

13 - - - - -

14 (A recess was taken at this time.)

15 - - - - -

16 THE VIDEOGRAPHER: Back on
17 video record 3:45 p.m.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. For the employees whose
20 estimates of nonemployee time you relied
21 on, you do not know how those employees
22 determined which issues were related to
23 social media, correct?

24 A. Sorry, say it again.

25 Q. For the employees whose

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1 estimates of nonemployee time -- sorry,
2 non-teacher time -- yeah, so I'll start
3 that over, because, yeah, I messed that up.

4 For the employees whose
5 estimates of non-teacher time spent
6 addressing social media-related issues you
7 relied on, you do not know how those
8 employees determined which issues were
9 related to social media, correct?

10 A. No, again, I'm relying on
11 them to provide me the time loss estimate
12 that's relevant for this case.

13 Q. No definition related to
14 social media was provided to the client
15 survey respondents or by the affidavit --
16 employees who issued affidavits, correct?

17 MR. GRADEN: Objection. Form.

18 THE WITNESS: I don't know
19 what the affiants, you know, any
20 discussions they had about
21 definitions and I can't recall
22 what's in the client survey.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. If an employee provided an
25 estimate of the amount of time spent on

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1 behavior concerns, that time estimate would
2 not be a reliable input for a calculation
3 of damages relating to social media
4 specifically, correct?

5 MR. GRADEN: Objection.

6 Foundation.

7 THE WITNESS: If they're
8 providing an estimate of something
9 different than what's relevant
10 here, then, no, it's not the
11 relevant thing.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. And based on your
14 understanding, is an estimate of all time
15 spent on behavior concerns relevant to the
16 damages that you are calculating?

17 A. Say it again.

18 Q. Based on your understanding,
19 is an estimate of all time spent on
20 behavior concerns relevant to the damages
21 that you are calculating?

22 A. It's not part of what I'm
23 calculating. I am not calculating losses
24 related to all behavioral concerns. I'm
25 calculating damages associated with social

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1 media-related issues.

2 Q. If an employee provided an
3 estimate of the time spent addressing all
4 health impairments that have a connection
5 to a mental health component, that time
6 estimate would not be a reliable input for
7 a calculation of damages relating to social
8 media specifically, correct?

9 MR. GRADEN: Objection.

10 THE WITNESS: If they provided
11 an estimate of something that's not
12 social media-related damages, it's,
13 you know, it's not the thing that
14 you should use to calculate
15 damages.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. And all time spent addressing
18 health impairments that have a connection
19 to a mental health component is a different
20 question than time spent addressing social
21 media, correct?

22 MR. GRADEN: Objection. Asked
23 and answered.

24 THE WITNESS: Yeah, I mean,
25 it's the same thing, if it's not

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1 the social media, I mean, those
2 things can be related, obviously,
3 right, like, they may be related to
4 social media, but if it's just,
5 like, all this, unless it all is
6 from social media, no, it's not the
7 same thing.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. If an employee provided an
10 estimate of the amount of time spent
11 addressing all mental health issues in
12 students who engaged in some use of social
13 media, that time estimate would not be a
14 reliable input for a calculation of damages
15 relating to social media specifically,
16 correct?

17 MR. GRADEN: Objection. Form.

18 THE WITNESS: Not unless all
19 the mental health issues were
20 related to their some use of social
21 media.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. If an employee's estimate of
24 time spent addressing social media-related
25 concerns included all time spent addressing

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1 issues faced by students who were dealing
2 with homelessness, that time estimate would
3 not be a reliable input for a calculation
4 of damages relating to social media
5 specifically, correct?

6 A. Unless all of the
7 homelessness was attributable to social
8 media.

9 Q. And it's not plausible that
10 all homelessness would be attributable to
11 social media, correct?

12 MR. GRADEN: Objection to the
13 testimony.

14 THE WITNESS: That, I don't
15 know, but, you know, I'm just
16 trying to make sure the math works
17 in your question, right? So if all
18 the homelessness was attributable
19 to social media, then it would be,
20 but if it's not, if there are some
21 parts of homelessness that are not
22 attributable to social media, then,
23 again, the estimate of time loss is
24 not measuring at-issue conduct that
25 is appropriate for the damages

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1 calculation.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. If an employee estimated that
4 100 percent of her time is spent addressing
5 social media-related issues because all
6 students have been impacted with social
7 media at some point, that time estimate
8 would not be a reliable input for a
9 calculation of damages relating to social
10 media specifically, correct?

11 A. I mean, it would depend on
12 that employee's job, right? If they're
13 fundamentally just dealing with issues
14 related to social media, then it's not
15 unreasonable to assume that they would
16 report 100 percent of their time.

17 Q. If the employee deals with
18 some issues that are not directly related
19 to social media, but estimated that
20 100 percent of their time is spent
21 addressing social media-related issues
22 because all students have been impacted
23 with social media at some point, that time
24 estimate would not be a reliable input for
25 a calculation of damages relating to social

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1 media specifically, correct?

2 MR. GRADEN: Objection to
3 form.

4 THE WITNESS: I mean, if by
5 construction they're not spending
6 some of their time on stuff that's
7 stemming from social media, then
8 you shouldn't assume 100 percent of
9 the time.

10 BY MR. SANDOVAL-BUSHUR:

11 Q. Who is able to more reliably
12 estimate how many minutes an employee
13 spends his or her workday on a particular
14 issue, the employee or the employee's boss?

15 MR. GRADEN: Objection to
16 form.

17 THE WITNESS: I mean, I'm not
18 sure there's a definitive answer to
19 that. Either can be.

20 BY MR. SANDOVAL-BUSHUR:

21 Q. Who is able to more reliably
22 estimate how many minutes an employee
23 spends in his or her workday on a
24 particular issue, the employee or the
25 employee's boss's boss?

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1 MR. GRADEN: Objection to
2 form.

3 THE WITNESS: Again, it
4 depends on what kind of monitoring
5 we're doing, but, you know, you
6 would presume that the employee
7 would know more, but that doesn't
8 mean that the boss doesn't know or
9 the boss's boss doesn't have a
10 reliable estimate.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. The estimates that you rely
13 on -- or let me ask the question a little
14 bit differently.

15 Estimates of employee time
16 spent on issues relating to social media
17 would be more reliable if you got estimates
18 from all of the employees who are addressed
19 in the affidavits, correct?

20 MR. GRADEN: Objection. Asked
21 and answered.

22 THE WITNESS: It's not
23 necessarily -- you wouldn't
24 necessarily get the different
25 answer. But to the extent that,

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1 you know, again, if you got
2 accurate reports from every single
3 employee, obviously, that is -- you
4 know, now you're at truth, whereas
5 when you're summarizing, there's
6 always going to be some potential
7 for a margin of error. So you'll
8 have a more precise, accurate
9 estimate. It doesn't mean it would
10 be a different estimate.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. In your reports, you provide
13 mean low and high damages estimates,
14 correct?

15 A. That's correct.

16 Q. For the high damages
17 estimate, you take the high end of the
18 confidence interval or margin of error for
19 the Klein teacher time survey and multiply
20 the teacher salaries and benefits by that,
21 correct?

22 A. By the share constructed from
23 that, yes.

24 Q. The high damages estimate
25 would only be accurate if the mean average

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1 time reported by the Klein teacher time
2 survey underestimated the time that
3 teachers spent addressing social
4 media-related issues, correct?

5 A. Yes.

6 Q. Which of the damages
7 estimates mean, low, and high do you think
8 is the most accurate?

9 A. Well, the mean is the mean of
10 the sample. The confidence interval is
11 just gives you some sense of understanding,
12 because of sample size issues and just
13 issues with, you know, the fact that -- you
14 know, there's variance in the data, you
15 know, we're just now speaking about we know
16 that we're pretty confident that, assuming
17 that the survey is accurate, that the mean,
18 the true value lies within this range. But
19 the mean is still the middle, right? It's
20 still the estimate that we have. So the
21 mean is the estimate that actually comes
22 from the survey. The high and low come --
23 describe the margin of error around the
24 survey. So you have some sense of, okay,
25 well, you could also be in here, just given

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1 sampling variance.

2 Q. You think the mean estimate
3 is a better estimate than the high
4 estimate, correct?

5 A. Yes, the high is the
6 extension of the confidence interval. It's
7 the highest thing that we're -- you know,
8 we're still within that range is
9 95 percent, but the odds of it lying right
10 at that edge are low. The odds are much
11 higher for the middle.

12 Q. In your reports you say that
13 "Existing studies confirm that, across the
14 nation, public school teachers are losing
15 time in dealing with disruption from social
16 media in their classrooms," correct?

17 A. That's --

18 Q. Look at tab, Exhibit 1F,
19 which is your Tucson report at
20 paragraph 23.

21 A. Paragraph?

22 Q. Twenty-three.

23 A. Okay. Yes, there you go.

24 Q. So and that says, "Existing
25 studies confirm that, across the nation,

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1 public school teachers are losing time to
2 dealing with disruptions from social media
3 in their classrooms," correct?

4 A. That's what it says, yes.

5 Q. Did you perform a literature
6 review to identify all studies that
7 examined whether public school teachers are
8 losing time to dealing with disruptions
9 from social media in their classrooms?

10 A. I looked, yeah, I mean, I
11 didn't do a -- you know, there's a formal
12 literature review process, I did not do a
13 formal literature review process, but I did
14 search for literature and I reported on the
15 things that I found that seemed most
16 relevant here.

17 Q. And to search for literature
18 relating to your statement that, "Existing
19 studies confirm that, across the nation,
20 public school teachers are losing time to
21 dealing with disruptions from social media
22 in their classrooms," one thing that you
23 did was ask ChatGPT for articles, correct?

24 A. I don't remember if I did
25 this in ChatGPT. I think I started with

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1 Google Scholar and maybe then just Google.
2 I don't remember if I did this with ChatGPT
3 or not.

4 Q. Well, if you look down at, in
5 paragraph 25 -- let me take a step back.

6 You identify and discuss in
7 your report a total of three existing
8 studies in support of your opinion that
9 existing studies confirm that, "across the
10 nation, public school teachers are losing
11 time to dealing with disruptions from
12 social media in their classrooms," correct?

13 A. I think that's right.

14 Q. If you look at paragraph 25,
15 you discuss one of those three surveys,
16 correct?

17 A. Uh-huh.

18 Q. And if you look at footnote
19 17, that is one of the -- that is your
20 citation --

21 A. Yup.

22 Q. -- correct, to the -- to that
23 article?

24 A. Yup.

25 Q. And if you look at the end of

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1 the URL, it says source equals ChatGPT.com,
2 correct?

3 A. Okay. So that suggests that
4 this was linked to from ChatGPT.

5 Q. And so you understand that it
6 says source equals ChatGPT.com at the end
7 of the URL because ChatGPT provided you
8 with that source in response to a question
9 you posed to ChatGPT, and then you accessed
10 that source by clicking that link, correct?

11 A. That seems to be what it was,
12 yes.

13 Q. And if you look at
14 paragraph 27, you describe another one of
15 the three articles that you relied on to
16 support your statement that, "Existing
17 studies confirm that, across the nation,
18 public school teachers are losing time to
19 dealing with disruptions from social media
20 in the classroom," correct?

21 A. Uh-huh.

22 Q. And if you look at footnote
23 18, you are citing another study and,
24 again, the URL for that source ends source
25 equals ChatGPT.com, correct?

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1 A. Yes.

2 Q. And so this is the second
3 article in support of this proposition that
4 you obtained via ChatGPT, correct?

5 A. I mean, the link is, yes.

6 Q. Okay. The article was
7 brought to your attention by ChatGPT?

8 A. I actually think it's the
9 other way around. I actually think I found
10 it and I then I forgot where it was, so
11 then I asked ChatGPT to find them. So I
12 found them at some point doing a regular
13 search, that's my recollection. And then
14 time passed and I forgot where they were,
15 but so I used ChatGPT to refind them.

16 Q. Okay. Earlier today, you
17 couldn't remember if you had used ChatGPT
18 at all, correct?

19 A. This is jogging my memory
20 that I did that for this purpose.

21 Q. Did you use ChatGPT to find
22 the third article?

23 A. It doesn't have that same
24 link, so probably not.

25 Q. Okay. Aside from these three

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1 studies, you have not cited any other
2 studies that confirm that across the nation
3 public school teachers are losing time to
4 dealing with disruptions from social media
5 in their classrooms, correct?

6 MR. GRADEN: Objection to
7 form.

8 THE WITNESS: Those are the
9 three studies that I cite, yes.

10 BY MR. SANDOVAL-BUSHUR:

11 Q. And sitting here today,
12 you're not aware of any other studies,
13 correct?

14 A. Not that I was aware of, no.

15 Q. After you found these three
16 studies, did you continue searching further
17 for additional studies that either
18 supported or contraindicated them?

19 A. I don't know which way the
20 order is. I did do other searches, you
21 know, I did a Google Scholar search trying
22 to find, you know, more peer-reviewed
23 academic literature that might actually
24 have measured this. I did not find
25 anything. Which came first, I don't

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1 remember.

2 Q. You are not aware of any
3 peer-reviewed literature that studies the
4 question of whether public school teachers
5 are losing time to dealing with disruptions
6 from social media in classrooms, correct?

7 A. Nothing that quantified the
8 time, no.

9 Q. And, in fact, you ultimately
10 found only one study that quantified the
11 time that teachers spend addressing
12 disruptions from social media in their
13 classrooms or that you characterize as
14 supporting that opinion, correct?

15 A. That's correct.

16 Q. In forming your opinions in
17 this case, did you look for any studies
18 examining how the total level of classroom
19 disruptions has changed over time?

20 A. No, I wasn't looking for
21 studies on classroom disruption levels
22 specifically.

23 Q. And you did not cite any
24 studies examining how the total level of
25 classroom disruptions has changed over

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1 time, correct?

2 A. Nope.

3 Q. Is it possible that the total
4 level of classroom disruptions remains
5 stable, even if classroom disruptions
6 specifically relating to social media
7 increased?

8 A. It's possible. I don't know.

9 Q. Is it possible that the total
10 level of classroom disruptions remained
11 stable even if classroom disruptions
12 specifically related to social media
13 increased because students may have
14 replaced distractions like talking or
15 passing notes with social media-related
16 distractions?

17 MR. GRADEN: Objection to
18 form.

19 THE WITNESS: It's possible, I
20 have no idea.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. Okay. Let's take a look at
23 one of the three articles that you cite
24 relating to your opinion about public
25 school teachers across the nation losing

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1 time to dealing with disruptions from
2 social media in their classrooms. And look
3 specifically at the article that you
4 identified from Nominet.UK?

5 A. Okay.

6 Q. This is one of the studies
7 that you relied on, one of the three
8 studies you relied on, correct?

9 A. It's one of the three studies
10 I cite, yes.

11 Q. And this study is not from
12 this nation, it's from the UK, correct?

13 A. That's correct.

14 Q. And this study from the UK
15 purported to find teachers losing time to a
16 combination of smartphone use and social
17 media, correct?

18 A. That's what it says here.

19 Q. That's what you wrote,
20 correct?

21 A. Yeah.

22 Q. And that's accurate, correct?

23 A. I assume so, I haven't looked
24 at this particular study in a while, but I
25 assume I quoted it correctly.

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1 Q. Okay. The Nominet study did
2 not measure or report the amount of time
3 that teachers lost to social media
4 specifically, correct?

5 A. It doesn't appear to separate
6 it. It's just reporting social media and
7 smartphones.

8 Q. Would you have included that
9 information in your report if the Nominet
10 article had studied social media
11 specifically?

12 A. Presumably, but I don't
13 remember what's actually in there.

14 Q. Okay. Let's take a look at
15 the Nominet article, which is tab 12, we'll
16 mark as Exhibit 8.

17 - - - - -

18 (Nominet Article marked Ward
19 Exhibit 8 for identification.)

20 - - - - -

21 BY MR. SANDOVAL-BUSHUR:

22 Q. Dr. Ward, this Exhibit 8 is
23 an article from Nominet that you relied on
24 for your opinions that you cite in your
25 expert report, correct?

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1 A. This is the article, yes.

2 Q. And there is nothing in this
3 Nominet article that measures or reports
4 the amount of time being lost to social
5 media specifically, correct?

6 A. No, I mean, you know, it just
7 describes the high level average that
8 combines both.

9 Q. It combines both social media
10 and smart devices --

11 A. And smart devices.

12 Q. -- correct? Is that correct?

13 A. That's what it says.

14 Q. And the Nominet article did
15 not report any amount of time loss by
16 teachers in connection with Defendants'
17 social media platforms specifically,
18 correct?

19 A. I mean, you know, this
20 article doesn't include all of the
21 methodological details of the survey, it
22 just summarizes the results of the survey,
23 so I can't say that one way or the other
24 what it included in its definition of
25 social media.

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1 Q. Well, your only knowledge
2 about this Nominet study that took place is
3 what is included in the article, right?

4 A. That's correct.

5 Q. And my question was, this
6 Nominet article did not report any amount
7 of time loss by teachers in connection with
8 Defendants' platforms specifically,
9 correct?

10 A. It does not define -- you
11 know, in what I -- you know, in the
12 article, it does not include its definition
13 of social media.

14 Q. Okay. And this article is
15 not peer reviewed, correct?

16 A. Not that I'm aware of.

17 Q. This article comes from a
18 company called Nominet, correct?

19 A. That's who is publishing this
20 article, yes.

21 Q. What is Nominet?

22 A. I would -- what does it say,
23 it says something about -- does it say who
24 they are here? They don't describe who
25 they are.

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1 Q. Okay. Had you ever heard of
2 Nominet before you reviewed this Nominet
3 article that you cited in your expert
4 report?

5 A. No.

6 Q. Do you know whether Nominet
7 is a reliable source of information?

8 A. I mean, you know, they
9 commissioned somebody else to do a survey,
10 right, that's where this comes from. So
11 this is just somebody -- them reporting on
12 a survey that they commissioned.

13 Q. Who did they commission to do
14 a survey?

15 A. A group called Opinium.

16 Q. Is Opinium a reliable source
17 of information?

18 A. I'm assuming they're a survey
19 research firm, so, you know, I assume that
20 they can conduct a survey.

21 Q. But you have no knowledge of
22 anything about Opinium other than that
23 Nominet commissioned them to conduct a
24 survey, right?

25 A. Sure.

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1 Q. So you are not able to say
2 one way or the other whether Opinium is a
3 reliable source of information, correct?

4 A. I found this somewhat
5 informative for the purposes that it's
6 being used for in my report.

7 Q. That's not my question, Dr.
8 Ward. You are not able to say one way or
9 the other whether Opinium is a reliable
10 source of information, correct?

11 MR. GRADEN: Asked and
12 answered.

13 THE WITNESS: I'm not sure I
14 have that opinion about much of
15 anything, but somebody is paying
16 them to do a survey, I'll give them
17 at least a starting benefit of the
18 doubt.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. So if somebody pays somebody
21 to do a survey, you give them the benefit
22 of the doubt that they're a reliable source
23 of information?

24 A. Yeah, because, you know, if
25 you're in the business of providing surveys

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1 that you generally are in the business of
2 trying to provide accurate surveys. Now,
3 if there's some evidence to the contrary
4 that they're not a reliable source, I'm
5 happy to consider it, but, you know,
6 generally, when people say that they've
7 done, you know, a survey, you know, and
8 they describe what, you know, that they
9 retained somebody to do it, I don't dismiss
10 it immediately.

11 Q. I'm not asking whether you
12 dismiss it immediately, Dr. Ward. I am
13 asking a question, which is, you do not
14 have any basis to say one way or the other
15 whether Opinium is a reliable source of
16 information, correct?

17 A. I found it sufficiently
18 reliable to include it in the report for
19 the purposes that I do.

20 Q. That's not my question, Dr.
21 Ward. My question is, please tell me all
22 information that you have that supports
23 your belief that Opinium is a sufficiently
24 reliable source of information for you to
25 rely on it for purposes of your report?

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1 A. I've already provided that.

2 Q. Which is, the only basis that
3 you have for believing that Opinium is a
4 reliable source of information is that an
5 entity called Nominet that you have never
6 heard them paid them to conduct a survey;
7 is that right?

8 MR. GRADEN: Objection.

9 Misstates testimony.

10 THE WITNESS: Well, I have the
11 information that's included here
12 that they are a company, that they
13 were commissioned to provide a
14 survey, and that they did so, a
15 survey with 500 respondents. That
16 is, you know, that's what I'm
17 relying on.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. So the fact that it's on a
20 website and the website says that somebody
21 paid Opinium to conduct the survey, that's
22 what you're relying on to rely on it --

23 A. Well, the results are also
24 consistent with the other two surveys.

25 Q. Well, actually, this is the

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1 only survey you rely on that provides an
2 estimate of time, right?

3 A. Yes, but it also has other
4 questions that are also similar to the ones
5 in the other survey. So, you know, I mean,
6 again, it's also UK data and it's from old.
7 I'm not relying on this information in any
8 way in my calculations. This is just
9 background information.

10 Q. You do not have any basis for
11 relying on information provided by Nominet,
12 correct?

13 A. I've already provided my
14 answer to that question.

15 Q. I didn't hear any basis for
16 you believing that Nominet is a reliable
17 source of information.

18 A. Okay.

19 Q. Can you please tell me what
20 information or basis you have for believing
21 that Nominet is a reliable source of
22 information?

23 MR. GRADEN: Objection to
24 testimony by counsel.

25 THE WITNESS: I've already

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1 answered that question.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Well, I don't believe that's
4 correct, so I'm asking you to answer it.

5 Can you please tell me what
6 information or basis you have for believing
7 that Nominet is a reliable source of
8 information?

9 MR. GRADEN: Objection.

10 THE WITNESS: They
11 commissioned a survey. That survey
12 does not have facially invalid
13 results and they retained a company
14 who they published who they are.
15 Presumably, we could look them up
16 and see if they're biased or not.
17 As a general rule, when I see
18 survey data that's a survey-based
19 data done by private entities, I do
20 not dismiss it. I do not think
21 it's somehow inherently unreliable.
22 If you have evidence that it is
23 inherently unreliable, I'm happy to
24 consider it.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. In fact, when you see a
3 survey that somebody has paid to do, you
4 don't just not assume that it's unreliable,
5 you presume that it is reliable, correct?

6 MR. GRADEN: Objection.
7 Misstates testimony.

8 THE WITNESS: Again, if
9 there's some evidence that this
10 company is of ill repute or that
11 there's something methodologically
12 or, you know, the questions are
13 somehow irrelevant, but, no, again,
14 it depends on what weight we're
15 putting on it, right? So, again,
16 all I'm doing here is I'm just
17 saying just describing a little bit
18 of background that I used and I
19 found helpful for trying to
20 understand this issue. Whether
21 this is completely reliable or only
22 marginally reliable has no bearing
23 on my opinions that I ultimately
24 offer in this case.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Okay. Let's look at another
3 source that you rely on and and that is an
4 article that comes from the NEA.

5 A. Okay.

6 Q. And the NEA article that you
7 rely on is a press release from the NEA; is
8 that right?

9 A. I mean, I think that's what I
10 cite that summarizes it.

11 Q. The NEA is a labor union
12 representing teachers, correct?

13 A. That's correct.

14 Q. The NEA press release that
15 you rely on is not peer reviewed, correct?

16 A. I don't know what they did to
17 put it out, but, typically, probably not.

18 Q. Nothing in the NEA press
19 release reports an estimate of how much
20 time teachers are losing to dealing with
21 disruptions from social media in their
22 classrooms, correct?

23 A. No, there is no time
24 estimate.

25 Q. There's no time estimate of

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1 any kind relating to social media in the
2 NEA press release that you rely on,
3 correct?

4 A. That's correct.

5 Q. And nothing in the NEA press
6 release reports any information relating to
7 student use of Defendants' platforms
8 specifically, correct?

9 A. I would have to review the
10 survey again.

11 Q. Okay. Let's look at tab ten,
12 which we will mark as Exhibit 9.

13 - - - - -

14 (NEA Article marked Ward
15 Exhibit 9 for identification.)

16 - - - - -

17 BY MR. SANDOVAL-BUSHUR:

18 Q. And Exhibit 9 is the NEA
19 document that you relied on, correct?

20 A. Yes.

21 Q. And nothing in Exhibit 9, the
22 NEA document that you relied on, reports
23 information relating to Defendants -- to
24 student use of Defendants' platforms
25 specifically, correct?

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1 A. This document does not
2 describe any particular languages on how to
3 define social media use.

4 Q. You are also cite a -- well,
5 I guess one more question, the NEA, do you
6 know if the NEA is a reliable source of
7 information?

8 A. Yeah, frequently, yeah. I
9 mean, they produce a lot of useful
10 information.

11 Q. And what's your basis for
12 saying that the NEA is a reliable --

13 A. I have used other things from
14 the NEA. I mean, they're, you know, they
15 represent teachers. They have a strong
16 vested interest in trying to make sure that
17 certain issues around teaching are brought
18 to light. Again, they've hired a firm, the
19 firm has done a really large actual survey
20 of members. They've got the -- all the
21 margin of error, everything reported here.
22 This all seems pretty reliable to me.

23 Q. The NEA is an advocacy
24 organization, correct?

25 A. Yeah.

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1 Q. And this article that you are
2 relying on is framed as being an advocacy
3 piece, correct?

4 A. Yeah, but the poll results
5 are on the back, right, and so you can look
6 at the poll results themselves.

7 Q. You also rely on an article
8 from Pew, correct?

9 A. That's correct.

10 Q. And the Pew survey of
11 teachers that you rely on asks teachers
12 only about student distraction on cell
13 phones. It did not report any information
14 about social media at all, correct?

15 A. I would have to review it, I
16 don't remember.

17 Q. Okay. Let's take a look at
18 it, it's tab 11, which we'll mark as
19 Exhibit 10.

20 - - - - -

21 (Pew Article marked Ward
22 Exhibit 10 for identification.)

23 - - - - -

24 BY MR. SANDOVAL-BUSHUR:

25 Q. Unfortunately, this printed

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1 pretty small, so --

2 A. Can we blow it up here on the
3 screen?

4 Q. Yeah, it's impossible to --

5 A. My eyes are good, but they
6 are fading as I get older.

7 Q. Yeah, sorry?

8 A. Can I scroll on here or do
9 you have to scroll?

10 Okay.

11 Q. The Pew survey of teachers
12 that you relied on asks teachers only about
13 student distraction on cell phones, it did
14 not report any information about social
15 media at all, correct?

16 A. Not specifically, no.

17 Q. One thing a school district
18 can do to reduce the amount of time that
19 teachers and other employees spend
20 addressing issues relating to cell phones
21 or social media is to ban student cell
22 phone use during class or during a school
23 day, correct?

24 MR. GRADEN: Objection.

25 Foundation.

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1 THE WITNESS: Potentially. I
2 don't know how much evidence we
3 have yet for that, but I think
4 that's a hypothesis that we're
5 currently trying to test.

6 BY MR. SANDOVAL-BUSHUR:

7 Q. You did not calculate how
8 much lower your estimated damages would
9 have been if school districts had banned
10 student cell phone use during class,
11 correct?

12 A. I have no basis to make those
13 adjustments because that's a causal
14 question that I didn't answer.

15 Q. For districts that have not
16 implemented cell phone bans, you did not
17 calculate how much lower your estimated
18 damages would have been if the school
19 districts had banned student cell phone use
20 during the entire school day, correct?

21 A. No, I did not calculate any
22 impact of hypothetical policies that I
23 don't know the impact for, because I have
24 not studied it.

25 Q. And for districts that

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1 implemented cell phone bans in the 24-25
2 school year, you did not calculate how much
3 lower your estimated damages would have
4 been if the school districts had banned
5 student cell phone use during the entire
6 school day sooner, correct?

7 MR. GRADEN: Objection.

8 THE WITNESS: I have no
9 evidence -- that, you know, of the
10 effects of the cell phone bans to
11 use to make a basis of that -- to
12 use as a basis for that.

13 BY MR. SANDOVAL-BUSHUR:

14 Q. In response to
15 Dr. Lakdawalla, you point to declines in
16 NAEP scores at the national level in U.S.
17 history, civics, and geography, correct?

18 A. That's correct.

19 Q. It was not part of your
20 assignment to evaluate what caused declines
21 in scores in U.S. history, civics, or
22 geography, correct?

23 A. No, I'm just -- he was
24 claiming that somehow the lack of declines
25 in other areas suggested that there's no

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1 harm for social media and I'm saying, well,
2 look, with the other things, there are
3 declines, so you can't make inferences just
4 based on what trends we see in particular
5 test score data.

6 Q. And you are not offering the
7 opinion that Defendants' conduct caused
8 declines in scores in U.S. history, civics,
9 or geography, correct?

10 A. I am not.

11 Q. And you did not look at any
12 data specific to any of the six bellwether
13 districts relating to how they performed on
14 tests relating to U.S. history, civics, or
15 geography, correct?

16 A. No.

17 Q. It was not part of your
18 assignment to determine whether any school
19 output in any of the six bellwether
20 districts has been adversely impacted by
21 social media, correct?

22 A. No, I'm not doing anything
23 that's trying to establish causal links.

24 Q. And you are not offering any
25 opinion that any Defendants' conduct

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1 adversely impacted any school outputs,
2 correct?

3 A. That's not part of my
4 assignment.

5 Q. Separate from your work in
6 this case, you do hold the opinion that
7 conservative culture wars have contributed
8 to declines in history and civics test
9 scores, correct?

10 MR. GRADEN: Objection.
11 Scope.

12 THE WITNESS: I have no idea.
13 BY MR. SANDOVAL-BUSHUR:

14 Q. You've never -- you don't
15 have any opinions outside of your work in
16 this case on what has contributed to
17 declines in history and civics test scores?

18 A. Perhaps, you know, I'm not --
19 I'm certainly not thinking about that right
20 now.

21 Q. Okay. And separate from your
22 work in this case, do you hold the opinion
23 that school disinvestment in teaching
24 history and civics has contributed to
25 declines in history and civics test scores?

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1 MR. GRADEN: Objection.

2 Scope.

3 THE WITNESS: It certainly
4 could.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. And that's something you are
7 aware has happened, right?

8 A. I don't recall, as I'm
9 sitting here. I may have seen some study
10 about that at some point, but I, you know,
11 right now, it's not top of mind.

12 Q. You did not calculate your
13 damages at an incident-by-incident level,
14 by which I mean you did not break out each
15 incident requiring a school employee to
16 spend time addressing a social
17 media-related issue, correct?

18 A. Sorry, say that again.

19 Q. You did not calculate your
20 damages at an incident-by-incident level,
21 by which I mean you did not break out each
22 incident requiring a school employee to
23 spend time addressing a social
24 media-related issue, correct?

25 A. No, I did not.

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1 Q. You do not have any data
2 identifying each school incident allegedly
3 related to Defendants' platforms, correct?

4 A. No, I do not.

5 Q. You do not have data
6 identifying each school incident allegedly
7 related to social media more broadly,
8 correct?

9 A. No, I have the aggregate
10 summaries of the time loss that we've
11 discussed before.

12 Q. If you had that, identifying
13 each incident requiring a school employee
14 to spend time addressing a social
15 media-related issues and the amount of time
16 that the employee spent on that incident,
17 you could have calculated damages on an
18 incident-by-incident level, correct?

19 MR. GRADEN: Objection.
20 Foundation.

21 THE WITNESS: I mean, if you
22 had a complete record of all
23 incidents, including the relevant
24 measure of time, that's accurate.
25 I guess, yeah, I think you could

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1 calculate it. Again, that's a big
2 assumption in terms of what data
3 exists, but if the data are
4 sufficient to do it, then, yeah.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. The total damages that you
7 estimate are comprised of many different
8 incidents, correct?

9 A. Yes, I think it's the
10 accumulation of them, yes.

11 Q. You don't know which
12 incidents, if any, involved YouTube,
13 correct?

14 A. No, as we discussed earlier,
15 I don't have any kind of breakout of time
16 loss by YouTube.

17 Q. You don't know which
18 incidents, if any, involved SnapChat,
19 correct?

20 A. As we discussed earlier, no,
21 I do not have any breakdown of time loss
22 particular to SnapChat.

23 Q. You don't know which
24 incidents, if any, involved TikTok,
25 correct?

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1 A. No, as we discussed earlier,
2 I don't have any breakdown of time loss
3 associated to TikTok.

4 Q. You don't know which
5 incidents, if any, involved Instagram,
6 correct?

7 A. No, I don't have any
8 breakdown of time loss associated with
9 Instagram.

10 Q. You don't know which
11 incidents, if any, involved Facebook,
12 correct?

13 A. I don't have any breakdown of
14 time loss associated with Facebook
15 specifically.

16 Q. You have not calculated what
17 your damages estimate would be if you
18 limited your estimate to incidents, if any,
19 that involved YouTube, correct?

20 A. No, I mean, if I don't have a
21 breakdown of time, I don't have a breakdown
22 of total damages.

23 Q. And you have not calculated
24 what your damages estimate would be if you
25 limited your estimate to incidents, if any,

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1 that involved SnapChat, correct?

2 A. I don't have a specific time
3 estimate for SnapChat. I don't have a
4 specific damages estimate for SnapChat.

5 Q. So the answer is you have
6 not --

7 A. No, I have not done that.

8 Q. You have not calculated what
9 your damages estimate would be if you
10 limited your estimate to incidents, if any,
11 that involved TikTok, correct?

12 A. No.

13 Q. You have not calculated what
14 your damages estimate would be if you
15 limited your estimate to incidents, if any,
16 that involved Instagram, correct?

17 A. No --

18 MR. GRADEN: Objection. Asked
19 and answered.

20 THE WITNESS: -- I have not
21 provided a broken-out estimate for
22 Facebook specifically.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. You have not calculated what
25 your damages estimate would be if you

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1 limited your estimate to incidents that
2 involved Facebook, correct?

3 A. No, I have not. I think we
4 just answered that one.

5 Q. I actually just asked about
6 Instagram. So I'll reask that --

7 A. Oh, sorry, I thought we just
8 did Facebook.

9 Q. You have not calculated what
10 your damages estimate would be if you
11 limited your estimate to incidents, if any,
12 that involved Instagram, correct?

13 A. No, I have not.

14 Q. If a teacher reports spending
15 15 minutes in a typical day addressing
16 student use of social media, that teacher
17 is likely addressing multiple different
18 incidents throughout the day, each of which
19 lasts less than 15 minutes, correct?

20 MR. GRADEN: Objection.
21 Foundation.

22 THE WITNESS: Potentially, I
23 don't know that for specifically.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. For example, a teacher who

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1 reports spending 15 minutes in a typical
2 day addressing student use of social media
3 may spend three minutes one day
4 disciplining for a student using Twitter
5 during class, correct?

6 MR. GRADEN: Objection.

7 Foundation.

8 THE WITNESS: Again, you know,
9 I do not know the breakdown of each
10 teacher's report. It could be
11 anything, as long as it's relevant
12 to this case.

13 BY MR. SANDOVAL-BUSHUR:

14 Q. But it's possible that a
15 teacher who reports spending 15 minutes in
16 a typical day addressing student use of
17 social media spends three minutes one day
18 disciplining a student for using Twitter,
19 correct?

20 MR. GRADEN: Objection. Asked
21 and answered.

22 THE WITNESS: I don't believe
23 Twitter is part of this, so I don't
24 know if Twitter would be a relevant
25 one. So that goes back to all

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1 these other issues we've had about
2 what people are including or not.
3 But, you know, if you want to pick
4 any particular social media
5 company, it could be three minutes
6 for Facebook or two minutes for
7 Instagram, none of that is broken
8 down in my data.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. And it's possible that the
11 student who the teacher disciplines for
12 using one social media platform is not
13 using any other social media platform,
14 correct?

15 MR. GRADEN: Objection.
16 Foundation.

17 THE WITNESS: Anything is
18 possible. I don't know --
19 correlations and student's social
20 media use is not something I have
21 knowledge of.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. So in an example where a
24 teacher spends three minutes on a
25 particular incident disciplining a student

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1 for using one platform during class, those
2 three minutes would be attributable to one
3 platform, correct?

4 A. I don't know if that, that --
5 the attribution of it, I would have to
6 think about exactly how we were trying to
7 attribute time to platform and how much
8 potential interaction there is or overlap
9 or accumulation of the facts. I have no --
10 I have not spent any time thinking about
11 how you would break down time estimates to
12 allocate them to particular companies.

13 Q. Part of your assignment was
14 to identify and calculate the salaries and
15 benefits paid to the employees who comprise
16 the population subgroups included in the
17 survey data and the affidavits with time
18 estimates, correct?

19 A. That's correct.

20 Q. For Tucson, to identify and
21 calculate the salaries and benefits to be
22 paid to the employees who comprise the
23 population subgroups included in the survey
24 data and affidavits, you relied on Excel
25 files that were provided to you, correct?

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1 A. That's correct.

2 Q. And you received those Excel
3 files from Plaintiffs' attorneys, correct?

4 A. That's correct.

5 Q. And we can look at
6 Exhibit 1F, which is your Tucson report at
7 page 4 and footnote four. And you see that
8 those Excel files are titled, Fiscal Year
9 2017 Social Media Litigation Positions,
10 with a date following that, through fiscal
11 year 2024 Social Media Litigation Positions
12 with numbers after that, correct?

13 A. That's correct.

14 Q. The titles of the Excel files
15 you relied on indicate that they were
16 created for this litigation shortly before
17 you issued your report, correct?

18 A. If we think of those as
19 dates, that would be what is suggested, but
20 I don't know specifically.

21 Q. Okay. Do the titles of the
22 Excel files you relied on to identify and
23 calculate salaries and benefits paid to
24 Tucson employees indicate that those files
25 were created for this litigation?

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1 MR. GRADEN: Objection.

2 THE WITNESS: It includes the
3 language social media litigation
4 positions.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. You do not know who created
7 the Excel files that you relied on to
8 identify and calculate the salaries and
9 benefits paid to Tucson employees, correct?

10 MR. GRADEN: Objection.
11 Foundation.

12 THE WITNESS: I don't recall
13 that information, no.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. Is it possible that
16 Plaintiffs' attorneys created those Excel
17 files?

18 A. I highly doubt it, because I
19 did -- I did confirm some questions where I
20 then got feedback through attorneys that
21 were being confirmed by district people.

22 Q. The Excel files that were
23 provided to you by Plaintiffs' attorneys
24 identified for you the employees who
25 comprised the population subgroups included

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1 in the survey data and affidavits with --
2 correct? I can ask that again because that
3 was a mess, I'm sorry.

4 A. Yeah.

5 Q. So the files that you were
6 provided by Plaintiffs' attorneys for the
7 Tucson case identified for you the
8 employees who comprised the population
9 subgroups that were included in the survey
10 data and affidavits, correct?

11 A. It included -- I think it
12 includes all positions and I used it to
13 identify those populations.

14 Q. The Excel file that you were
15 provided by Plaintiffs' attorneys told you,
16 for example, which employees were
17 counselors, correct?

18 A. Yes.

19 Q. And you relied solely on the
20 Excel files that were provided to you by
21 Plaintiffs' attorneys to identify the
22 employees who comprised the population
23 subgroups included in the survey data and
24 affidavits for purposes of your damages
25 calculation, correct?

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1 A. Say that again, I got lost.

2 Q. Sure. You relied solely on
3 the Excel files that were provided to you
4 by Plaintiffs' attorneys to identify the
5 employees who comprised the population
6 subgroups used in your damages estimates,
7 correct?

8 MR. GRADEN: Objection.
9 Foundation.

10 THE WITNESS: Yes, I used
11 these data, these are the data that
12 I used to calculate those
13 populations.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. And to calculate employee
16 benefits, you rely on a statement in the
17 Excel file that Plaintiffs' attorneys gave
18 you that states that benefits are
19 30 percent of salaries, correct?

20 MR. GRADEN: Objection.
21 Foundation. Form.

22 THE WITNESS: That's what, you
23 know, they -- the number that they
24 provided me, yes.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. For your estimate of damages
3 relating to teacher salaries and benefits
4 for Tucson, you rely on the results of
5 Klein's teacher time survey, correct?

6 A. Sorry, say that again.

7 Q. For your estimate of damages
8 relating to teacher salaries and benefits
9 for Tucson, you rely on the results of
10 Klein's teacher time survey, correct?

11 A. That's correct.

12 Q. And you do not know what
13 percentage of teachers in Tucson responded
14 to the Klein teacher time survey, correct?

15 A. No, I do not.

16 Q. For purposes of your opinion,
17 it does not matter how few teachers in
18 Tucson responded to the Klein teacher time
19 survey, correct?

20 A. I'm relying on the estimates
21 that Dr. -- or Mr. Klein provides are
22 reasonable for my purposes.

23 Q. Even if only 1 percent of
24 teachers responded to the Klein teacher
25 time survey, your job was to apply the

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1 average response of that 1 percent of
2 teachers who responded to calculate today
3 damages, correct?

4 MR. GRADEN: Objection.
5 Foundation.

6 THE WITNESS: I applied the
7 estimates from the survey.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. Even if only 1 percent of
10 teachers responded to the Klein teacher
11 time survey, correct?

12 MR. GRADEN: Objection.

13 THE WITNESS: Whatever is in
14 there.

15 BY MR. SANDOVAL-BUSHUR:

16 Q. So whatever is in the Klein
17 teacher time survey, you applied for
18 purposes of calculating your damages, it
19 didn't matter what the response rate was,
20 correct?

21 A. That's correct.

22 MR. GRADEN: Objection.

23 BY MR. SANDOVAL-BUSHUR:

24 Q. And it was not part of your
25 assignment to evaluate whether the teachers

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1 who responded to the Klein teacher time
2 survey were different in any way from the
3 teachers who did not respond to the Klein
4 teacher time survey, correct?

5 A. That's correct, that's not my
6 part of my assignment.

7 Q. For the time inputs for your
8 Tucson damages estimates for non-teacher
9 time, you relied on the declarations of
10 Brian Lambert, Holly Hammel, Sabrina
11 Salmon, and Julie Shivanonda, correct? If
12 you would like to look at paragraph 29 of
13 your expert report.

14 A. I don't know, is that the
15 list, Lambert, Hammel, Salmon, Shivanonda,
16 yes, correct.

17 Q. And for the time inputs for
18 your Tucson damages for non-teacher time,
19 you do not rely on any source other than
20 the declarations of Mr. Lambert,
21 Ms. Hammel, Ms. Salmon, and Ms. Shivanonda,
22 correct?

23 A. That's correct.

24 Q. For the time estimates for
25 Tucson elementary, middle, and high school

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1 principals and assistant principals, you
2 relied on the affidavits of two district
3 employees and took the average of their
4 estimates, correct?

5 MR. GRADEN: Objection to
6 form.

7 THE WITNESS: If there were
8 two estimates, I averaged them. I
9 don't remember in this specific
10 case whether there were two
11 estimates or not.

12 BY MR. SANDOVAL-BUSHUR:

13 Q. Okay. Does it -- is it
14 familiar to you that you received estimates
15 for elementary, middle, and high school
16 principals and assistant principals from
17 both Brian Lambert and Holly Hammel?

18 A. The matching of who provided
19 what, I cannot tell you off the top of my
20 head, but -- so I don't know.

21 Q. Do you understand that
22 Mr. Lambert and Ms. Hammel are both
23 regional superintendents for Tucson?

24 A. I don't remember everybody's
25 position.

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1 Q. Did it matter to you what
2 anyone's position was for purposes of your
3 calculation of damages?

4 A. No, I assumed that the people
5 who were providing it were people who had
6 been identified because they had the
7 relevant knowledge.

8 Q. Do you know how many regions
9 there are in the Tucson School District?

10 A. Not off the top of my head,
11 no.

12 Q. Okay. I'll represent to you
13 that there are five.

14 A. Okay.

15 Q. And so you took the average
16 of the estimates that Mr. Lambert and
17 Ms. Hammel provided in their declarations
18 and applied that average to calculate
19 damages for Tucson elementary, middle, and
20 high school principals and assistant
21 principals for all five regions, does that
22 sound correct?

23 A. I applied those estimates to
24 the whole district, that's correct.

25 Q. You understand that

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1 Mr. Lambert and Ms. Hammel offered
2 different estimates of the percentages of
3 time that principals and assistant
4 principals spent addressing social
5 media-related issues, correct?

6 A. Potentially, I don't know
7 exactly what they put in.

8 Q. When two employees offered
9 different estimates as part of your
10 methodology, you did not attempt to
11 understand why their estimates were
12 different, correct?

13 A. No, I didn't.

14 Q. When two employees offered
15 different estimates, you did not consider
16 the possibility that the employee offering
17 the higher estimate offered an inaccurate
18 estimate, correct?

19 MR. GRADEN: Objection.
20 Foundation.

21 THE WITNESS: I assumed that
22 they provided me their best
23 estimate of what the time loss was.

24 BY MR. SANDOVAL-BUSHUR:

25 Q. When you received estimates

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1 from two employees covering the same time
2 period and same position, you took a simple
3 average of their estimates, correct?

4 A. That's correct.

5 Q. You did not consider the
6 possibility that one of the two estimates
7 that you put in that simple average might
8 have been an inaccurate estimate, correct?

9 MR. GRADEN: Objection. Asked
10 and answered. Foundation.

11 THE WITNESS: I assumed they
12 provided me accurate information.

13 BY MR. SANDOVAL-BUSHUR:

14 Q. Well, but when you have two
15 employees giving different estimates for
16 the same position and the same time period,
17 it is not possible that those two different
18 estimates are both accurate, correct?

19 MR. GRADEN: Objection to
20 form.

21 THE WITNESS: I mean, they're
22 not precisely the same and so if
23 you're saying, you know, if one
24 is -- if there's a precise number
25 and one is the precise number and

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1 the other isn't, then, yeah, one is
2 by construction not accurate. But
3 it doesn't mean that the average of
4 them is not the accurate answer.

5 BY MR. SANDOVAL-BUSHUR:

6 Q. But you would have no way of
7 knowing whether the true answer of how much
8 time employees in a position spend on
9 social media is the low estimate, the high
10 estimate, the average of the two estimates
11 or something else entirely, right?

12 MR. GRADEN: Object to form.

13 THE WITNESS: Say it again.

14 BY MR. SANDOVAL-BUSHUR:

15 Q. Okay. We are talking about a
16 situation where you have two employees who
17 gave different estimates for the same
18 position and same time period, correct?

19 A. Yes.

20 Q. When that occurs, you have no
21 way of knowing whether the true answer of
22 how much time employees in the position
23 spend on social media is the lower estimate
24 of the two, the higher estimate of the two,
25 the average of the two, or some completely

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1 different number, correct?

2 MR. GRADEN: Objection to
3 form.

4 THE WITNESS: I mean, the
5 whole point is that the true answer
6 is unknown. So, no, no one can
7 tell me that one is accurate or
8 not, because the truth by
9 construction here is unknown,
10 right, we don't know it. So we're
11 eliciting information to try and
12 uncover that truth.

13 BY MR. SANDOVAL-BUSHUR:

14 Q. Neither Mr. Lambert nor
15 Ms. Hammel worked in the majority of the
16 regions in the Tucson School District, they
17 did not work in three of the five regions,
18 correct?

19 MR. GRADEN: Objection.
20 Foundation.

21 THE WITNESS: I mean, I don't
22 remember what they worked in or
23 whether they've worked in other
24 ones in at points in time or if
25 we're just restricting this to the

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1 current point in time or whatnot.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. Let's assume that throughout
4 the relevant time Mr. Lambert and
5 Ms. Hammel worked in only one each out of
6 the five regions, so neither of them worked
7 in the three remaining regions. Okay?

8 A. Okay.

9 Q. If that is true, it is
10 entirely possible that Mr. Lambert and
11 Ms. Hammel's estimates are higher, both
12 higher than the estimates would have been
13 from the regional superintendents,
14 superintendents for the other three
15 regions, correct?

16 MR. GRADEN: Objection to
17 form.

18 THE WITNESS: I don't recall
19 them offering estimates only for
20 their region. I believe they were
21 attempting to describe the whole
22 district. And, presumably, they
23 have information on the whole
24 district for the reasons that we've
25 talked about previously, which is I

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1 can elicit information or I can
2 learn information about people in
3 other regions. These aren't, like,
4 you know, they're not living in
5 hermetically sealed bubbles where
6 they have no information about the
7 rest of the district.

8 BY MR. SANDOVAL-BUSHUR:

9 Q. If Mr. Lambert and Ms. Hammel
10 in fact stated that their estimates were
11 only for their own regions, what would your
12 basis be for assuming that the other three
13 regions -- that those estimates could be
14 applied to the other three regions?

15 MR. GRADEN: Objection.
16 Foundation. And we're about at an
17 hour too, so if we can take a break
18 at the next convenient time.

19 THE WITNESS: Well, I mean
20 I've got 40 percent of the
21 population, you know, or 40 percent
22 of the regions directly covered and
23 I don't recall there being a large
24 difference between the two
25 estimates, so it is not

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1 unreasonable to assume that they
2 would apply in the other areas.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. And what is your basis for
5 saying it is not unreasonable to assume
6 that the estimates of superintendents
7 overseeing two regions would be a reliable
8 metric for the three regions that they did
9 not oversee?

10 A. Because nothing that I've
11 reviewed, either in the survey or any of
12 the affidavits in any of the districts, you
13 know, is suggesting that somehow that
14 there's enormous variation across
15 geography, particularly, and I don't even
16 know what the regions are in Tucson, I
17 don't know what regions they are
18 representing, but it seems perfectly
19 reasonable to say, look, this is the
20 information that I have, this is what I was
21 provided, it speaks to these positions, I'm
22 going to apply it.

23 Q. There is in fact very
24 significant variation across geography of
25 the amount of time that was provided to you

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1 in estimates of how school employees in
2 different positions spent their time,
3 correct?

4 MR. GRADEN: Objection to the
5 testimony by counsel.

6 THE WITNESS: In what sense?
7 BY MR. SANDOVAL-BUSHUR:

8 Q. There are districts whose
9 estimate of the amount of time that
10 counselors spend addressing social media
11 issues are five times higher than the
12 estimates for other districts, correct?

13 A. Oh, across districts, yes.
14 You know, but I'm saying within Tucson,
15 right, so Tucson is a particular area,
16 right, and I'm certainly willing to
17 acknowledge that there may be regional
18 effects or district effects, you know, at
19 the larger region, but I don't know why
20 there would be -- you know, I see no
21 evidence that would suggest that within a
22 single district, there should be enormous
23 variation in these estimates.

24 Q. But you just haven't actually
25 studied that question of if there is in

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1 fact within district variation of the
2 amount of time that is spent addressing
3 social media issues, correct?

4 MR. GRADEN: Objection.

5 THE WITNESS: Nobody made any
6 reference to that in any of the
7 materials that I reviewed for
8 people describing time estimates.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. You haven't actually studied
11 the question of if there is in fact within
12 district variation of the amount of time
13 that is spent addressing social media
14 issues, correct?

15 MR. GRADEN: Objection. Asked
16 and answered.

17 THE WITNESS: I've seen no
18 evidence of that.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. Have you actually studied
21 that question?

22 A. I mean, I would have seen it
23 in the evidence if it was there, but I
24 haven't -- I didn't see any.

25 Q. You didn't look for

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1 information for it either, correct?

2 MR. GRADEN: Objection.

3 Misstates.

4 THE WITNESS: I don't recall
5 any of the affidavits describing
6 that, that issue.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. For the time estimates for
9 the other Tucson non-teacher employees, you
10 relied on affidavits from Sabrina Salmon
11 and Julie Shivanonda, correct?

12 A. That's correct.

13 Q. And if you look at page 10 of
14 your Tucson report, Table 4, those
15 positions are listed in the right-hand
16 column, correct?

17 A. I don't -- again, I don't
18 remember who did what. But there are
19 positions listed in the right-hand column.

20 Q. One of the positions listed
21 in Table 4 of your Tucson report is
22 director, social emotional learning,
23 correct?

24 A. Correct.

25 Q. And that position has an

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1 estimate of 100 percent, correct?

2 A. That's what's here.

3 Q. Do you think it's possible
4 that literally 100 percent of the director
5 of social emotional learning's time was
6 spent addressing student use of social
7 media?

8 A. It's certainly possible.

9 Q. Did you see any information
10 that corroborated that that in fact
11 happened?

12 MR. GRADEN: Objection.

13 THE WITNESS: Again, I'm
14 taking the information provided to
15 me by the affiant as sworn
16 testimony and as a reliable
17 estimate of the time for the
18 positions that they give me.

19 BY MR. SANDOVAL-BUSHUR:

20 Q. You do not know what the
21 director of social emotional learning's job
22 entails, correct?

23 A. It may have been described in
24 the affidavit, I don't remember.

25 Q. For purposes of your opinion,

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1 you did not need to know what the director
2 of social emotional learning's job
3 entailed, correct?

4 MR. GRADEN: Objection.

5 THE WITNESS: No, I was -- I'm
6 taking time estimates and I needed
7 to be able to identify how much
8 they got paid.

9 BY MR. SANDOVAL-BUSHUR:

10 Q. Do you think it's possible
11 that whoever provided that 100 percent
12 estimate may have misunderstood what they
13 were supposed to be estimating?

14 MR. GRADEN: Objection.

15 THE WITNESS: I have -- I
16 mean, anything is possible. I have
17 no reason to believe that's the
18 case.

19 MR. SANDOVAL-BUSHUR: So we
20 can take a break.

21 THE VIDEOGRAPHER: Going off
22 video record 4:53 p.m.

23 - - - - -

24 (A recess was taken at this time.)

25 - - - - -

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1 THE VIDEOGRAPHER: Back on
2 video record 5:10 p.m.

3 BY MR. SANDOVAL-BUSHUR:

4 Q. Dr. Ward, could you please
5 turn to Exhibit 1E, which is your amended
6 Irvington report?

7 A. Okay.

8 Q. And go to paragraph 29. For
9 the time inputs to your Irvington damages
10 estimate for non-teacher time, you relied
11 on the declarations of Dr. April Vauss and
12 Sandra Lopez, correct?

13 A. That's correct.

14 Q. For the time inputs to your
15 Irvington damages estimates for non-teacher
16 time, you did not rely on any sources other
17 than the declarations of Dr. April Vauss
18 and Sandra Lopez?

19 A. That's correct.

20 Q. I would like you to take a
21 look at Exhibit 2E, which is your Irvington
22 rebuttal report. And if you turn to
23 page 6, this is a list of materials
24 considered, correct?

25 A. Yes.

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1 Q. And if you look under the
2 heading Irvington documents, there is a set
3 of documents that have the heading Bates
4 and you list a series of documents there,
5 correct?

6 A. Correct.

7 Q. Including documents that
8 start with the Bates stamp BW__Irvington
9 and a series of numbers, correct?

10 A. That's correct.

11 Q. You do not cite in your
12 report -- you do not cite these documents
13 in your report, correct?

14 MR. GRADEN: Objection.

15 THE WITNESS: I have no idea.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. Well, you could just --

18 A. In the reply report here?

19 Q. Correct.

20 A. I don't see them in a
21 footnote anywhere.

22 Q. So you do not say in your
23 report how these documents support or are
24 related to your opinions, correct?

25 A. No, I do not.

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1 Q. Do these documents that start
2 with the BW__Irvington Bates number support
3 or relate to your opinions?

4 A. I have no idea what they are.

5 Q. Do you know how they wound up
6 on your materials considered list?

7 A. Well, presumably, they're
8 part of the materials I've considered at
9 some point for Irvington, but I don't know
10 what Bates numbers, I don't recall
11 documents based on Bates numbers, so I
12 don't know what these -- I literally don't
13 know what they are.

14 Q. And so sitting here today,
15 you are not able to tell me whether or how
16 these documents support or are related to
17 your opinions, correct?

18 A. I do not.

19 Q. Okay. If you turn to tab 1B,
20 Exhibit 1B, what is your amended Charleston
21 report and go to paragraph 32. For the
22 time inputs for your Charleston damages
23 estimates for non-teacher time, you relied
24 on the declarations of Anita Huggins and
25 Lisa Allison, correct?

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1 A. That's correct.

2 Q. For the time inputs to your
3 Charleston damages estimate for non-teacher
4 times, you do not rely on any other
5 declarations other than the declarations of
6 Anita Huggins and Lisa Allison, correct?

7 A. That is correct.

8 Q. Are you aware that Anita
9 Huggins is the person who provided the
10 estimate for principal time for the
11 Charleston district?

12 A. I don't remember who applies
13 to what.

14 MR. SANDOVAL-BUSHUR: Okay.
15 Let's mark tab 21 as Exhibit 11.

16 - - - - -

17 (Affidavit of Lisa Kathryn
18 Allison marked Ward Exhibit 11
19 for identification.)

20 - - - - -

21 BY MR. SANDOVAL-BUSHUR:

22 Q. And, Dr. Ward, this is the
23 declaration of Lisa Allison, who is one of
24 the two people who you relied on for your
25 non-teacher time estimates for Charleston,

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1 correct?

2 A. It's the affidavit, but yes.

3 Q. And Ms. Allison does not
4 provide an estimate for principals,
5 correct?

6 A. Sorry, what was your question
7 again?

8 Q. Ms. Allison's affidavit does
9 not provide any estimate of time for
10 principals or assistant principals,
11 correct?

12 A. She appears to do school
13 psychologists, counselors, and social
14 workers, so no principals.

15 Q. Okay. Great. Let's mark tab
16 20, which is the affidavit of Anita Huggins
17 as Exhibit 12. And Ms. Huggins is the
18 other of the two people who you rely on for
19 Charleston for estimates of non-teacher
20 time, correct?

21 A. That's correct.

22 - - - - -

23 (Affidavit of Anita Huggins
24 marked Ward Exhibit 12 for
25 identification.)

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1 - - - - -

2 BY MR. SANDOVAL-BUSHUR:

3 Q. And you see that Ms. Huggins
4 does in paragraph 12 of her affidavit
5 provide a time estimate for principals,
6 correct?

7 A. It's also, it's 11 and 12,
8 but, yeah.

9 Q. So for high school
10 principals, Ms. Huggins provides her
11 estimate of time for high school principals
12 and high school assistant principals in
13 paragraph 12, correct?

14 A. That's correct.

15 Q. And if you look at what
16 Ms. Huggins says, she writes that in the
17 Charleston School District, high school
18 principals and assistant principals
19 currently spend 15 percent of their time
20 dealing with social media issues, correct?

21 A. Correct.

22 Q. And she says, "This
23 represents, on average, an increase of more
24 than 150 percent of time spent on these
25 issues since 2017," correct?

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1 A. Correct.

2 Q. And so that means that in
3 2017, according to Huggins' estimate, high
4 school principals and assistant principals
5 spent 6 percent of their time addressing
6 social media-related issues, correct?

7 A. Correct.

8 Q. Okay. Let's now look back at
9 your Charleston report, Exhibit 1B, and
10 look at page 9, Table 4.

11 A. All right.

12 Q. Here for high school
13 principals and high school assistant
14 principals for the year 2017, you have put
15 a share of 9 percent, correct?

16 A. That's what's listed there.

17 Q. And we just agreed that
18 Ms. Huggins' affidavit said that teachers
19 spent 6 percent of their -- sorry, not
20 teachers, we just agreed that Ms. Huggins
21 affidavit said high school principals and
22 assistant principals spent 6 percent of
23 their time in 2017 on social media-related
24 issues, correct?

25 A. Correct.

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1 Q. So this 9 percent figure in
2 your Charleston report for high school
3 principals and high school principals for
4 2017 is erroneous, correct?

5 A. It appears to be, yes.

6 Q. And because that percentage
7 for 2017 is erroneously high, your damages
8 estimates for Charleston relating to high
9 school principals and assistant principals
10 is erroneously high for 2017-2018,
11 2019-2020, 2021-2022, 2023, and 2024,
12 correct?

13 A. Assuming it was applied in
14 the calculation, and it's not just a typo
15 in the table, that would be correct.

16 Q. Okay. But if what you said
17 in your Charleston expert report is
18 accurate -- accurately reflects the inputs
19 that you used for your calculation,
20 correct --

21 A. If it does, yes.

22 Q. -- then your damages
23 estimates for Charleston relating to high
24 school principals and assistant principals
25 would be erroneously high from 2017 through

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1 2024, correct?

2 MR. GRADEN: Objection.

3 Compound.

4 THE WITNESS: If I've used the
5 wrong percentage, then yes, it's
6 improperly calculated.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. And if your high school
9 principals and high school assistant
10 principal damages are erroneous for
11 Charleston, then your total damages
12 estimates for Charleston are also
13 incorrect, correct?

14 MR. GRADEN: Objection. Form.

15 THE WITNESS: Yeah, they'll be
16 pretty slight, but yeah.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. Okay. I would like to turn
19 to tab or Exhibit 1D, which is your Harford
20 amended report and turn to paragraph 41.

21 A. So 1D.

22 Q. 1D as in dog, in
23 paragraph 41.

24 A. Okay.

25 Q. You describe here a mismatch

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1 in the data you used to calculate Harford's
2 damages related to counselors and school
3 psychologists, correct?

4 A. Okay.

5 Q. That is correct, that you
6 describe a mismatch in the data you used to
7 calculate Harford's damages related to
8 counselors and school psychologists?

9 A. Yeah, a year mismatch, yeah.

10 Q. Okay. You calculated
11 Harford's damages relating to counselors
12 and school psychologists using an estimate
13 of time spent addressing social media that
14 covered 2017 to 2024 and applied that to
15 the amount of salary and benefits paid to
16 counselors and school psychologists in
17 2025, right?

18 A. And assumed that applied to
19 2024.

20 Q. What do you mean when you
21 say, "and assumed that applied to 2024"?

22 A. I only actually calculated
23 losses for 2024 for this population, so I'm
24 only applying the percentage to a wage
25 estimate for one year.

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1 Q. You acknowledge that because
2 there is a mismatch between the time period
3 covered by the time estimate and the time
4 period for which you had data on counselor
5 and psychologists' salaries and benefits,
6 your Harford damages related to counselors
7 and school psychologists may be inaccurate,
8 correct?

9 MR. GRADEN: Objection.

10 THE WITNESS: Well, I note
11 that there's a slight mismatch and
12 because the movement between wages
13 is mostly just inflation anyway and
14 I've adjusted for that, it's
15 unlikely to have much of an effect,
16 but there's a slight technical
17 mismatch of what I'm applying in
18 the wage column and what I'm
19 applying in the shared estimate
20 time.

21 BY MR. SANDOVAL-BUSHUR:

22 Q. Why did you have to calculate
23 damages for Harford using mismatched data?

24 A. The only data that I had for
25 wages was 24-25.

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1 Q. Did you ask Harford for data
2 for in the 2024 year?

3 A. I asked all the districts for
4 data for all of the years.

5 Q. And Harford just didn't
6 provide you with data for salaries for the
7 years that you requested it?

8 A. This is the only data I
9 received.

10 Q. Do you think that there's
11 some reason why Harford was unable to
12 provide you with salary data for 2024?

13 A. I don't know why. I used
14 what I had.

15 Q. Let's look at Exhibit 1A,
16 which is your Breathitt report. If you
17 look at paragraph 36, for your estimates of
18 time for non-teachers, you rely on the
19 affidavits of Will Noble, Daphne Noble,
20 Jeremy Hall, Phil Watts, and Kera Howard,
21 correct?

22 A. That's 34.

23 Q. Oh, I apologize.

24 A. Will Noble, Daphne Noble,
25 Jeremy Hall, Phil Watts, Kera Howard.

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1 Q. For the time inputs for your
2 Breathitt damages estimates for
3 non-teachers, you did not rely on any
4 source other than the affidavits of Will
5 Noble, Daphne Noble, Jeremy Hall, Phil
6 Watts, and Kera Howard, correct?

7 A. That's correct.

8 Q. An essential part of your
9 damages calculation for Breathitt was your
10 calculation of the dollar amount of
11 employee benefits paid to the relevant
12 categories of employees, correct?

13 A. That's part of the
14 calculation, yes.

15 Q. To calculate the amount of
16 employee benefits, you used what you called
17 a benefits multiplier, correct?

18 A. That's correct.

19 Q. And what is a benefits
20 multiplier?

21 A. Essentially, it's what you
22 would multiply wages by to obtain total
23 compensation that includes both wages and
24 benefits, the value of benefits.

25 Q. If you look at paragraph 22

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1 of your Breathitt report, Exhibit 1A, you
2 say I used a benefit multiplier provided by
3 the district to add benefits, correct?

4 A. Correct.

5 Q. You do not say what, in the
6 text of your report, what that benefits
7 multiplier is, correct?

8 A. It doesn't appear to be
9 there.

10 Q. And you do not provide a
11 source for what that benefit multiplier is,
12 correct?

13 MR. GRADEN: Objection.

14 THE WITNESS: It doesn't
15 appear to be here. I received it
16 from the district via counsel.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. So counsel provided you with
19 the benefit multiplier for Breathitt?

20 A. That's correct.

21 Q. Did you do anything other
22 than rely on the multiplier that counsel
23 provided you to verify that that benefit
24 multiplier was accurate?

25 A. I actually did investigate it

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1 and it actually appears to be low, so it
2 was the most conservative number. In the
3 common core of data data, there's a
4 benefits and wages calculation, so I could
5 compare that. And it suggested a higher
6 number than what I got from the district,
7 but when I was told the number by the
8 district, I just said I'm going to trust --
9 trust what they tell me.

10 Q. You do not know who from the
11 district provided the benefit multiplier
12 that you received from counsel?

13 A. I may have been told at the
14 time, but I don't remember right now.

15 Q. And you didn't speak to
16 anyone from Breathitt about what the
17 benefit multiplier should be?

18 A. I did not.

19 Q. If you turn to Table 6 of
20 your Breathitt report, Table 6 summarizes
21 your calculation of damages for the 2016 to
22 2020 time period for Breathitt, correct?

23 A. That's correct.

24 Q. And, actually, let's -- and
25 let's take a look at Table 5. Table 5 of

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1 your Breathitt report summarizes your
2 calculation of damages for the 2021 to 2024
3 time period, correct?

4 A. Correct.

5 Q. And there's, like, two tables
6 that sort of work together here. You've
7 got survey-related damages,
8 affidavit-related damages and then combined
9 survey plus affidavit total, correct?

10 A. Correct.

11 Q. And so for the 2021 to 2024
12 time period, you add together for base pay,
13 the total mean share from the survey,
14 323,000, plus the total base pay for the
15 affidavits, 1.133 million, and get a total
16 of 1.457 million, correct?

17 A. Correct.

18 Q. Okay. Let's look at Table 6.
19 Now, if one were to attempt to perform that
20 same mathematical equation on Table 6, the
21 math doesn't add up, right? You've got a
22 mean share for survey based time loss of
23 428,000, a base pay for affidavit base
24 damages of 323,000, though the number that
25 is listed on the combined survey plus

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1 affidavit total should reflect the sum of
2 428,000 plus 323,000, correct?

3 A. It should. But these
4 numbers, it's like we didn't get the
5 corrected table in here.

6 Q. I will -- and there's also a
7 mathematical error when you look at base
8 pay plus benefits for this Table 5, 2016 to
9 2020 time period, correct?

10 A. Yeah.

11 Q. And I will represent to you
12 that the totals in the combined survey plus
13 affidavit total line are calculated by
14 taking two times the survey mean share plus
15 the affidavit total.

16 A. Sorry, say that again.

17 Q. So the way that the combined
18 survey plus affidavit total is equal to, if
19 you multiply by two, the mean share in the
20 survey section and add that to --

21 A. So it doubled it somehow?

22 Q. Correct.

23 A. Okay. So these are, yeah, so
24 I think that the combined total somehow got
25 subgrown [sic].

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1 Q. Okay. So that's an error in
2 your Breathitt report, correct?

3 A. Yes, in comparing the old
4 report to the corrected report, the top
5 part of the table is correct, but the sum,
6 sum, yeah, must have been gotten doubled.

7 Q. And every other damages
8 estimate in your report that relies on the
9 erroneously calculated total in Table 6 is
10 also erroneous, correct?

11 A. Yeah, any time it's citing
12 that number.

13 Q. And so sitting here today,
14 you're not confident that all of the
15 damages estimates reported in your
16 Breathitt report are accurate, correct?

17 MR. GRADEN: Objection.
18 Foundation.

19 THE WITNESS: It appears to be
20 the error that you're calculating
21 now that I've compared it to the
22 other one, the top line number is
23 the correct number, it's just the
24 summing.
25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Will you issue second amended
3 reports for each of Charleston and
4 Breathitt to address the issues we have
5 discussed today?

6 A. Sure, assuming the Charleston
7 one is an actual issue in the calculation
8 and not just an issue in the table, but I
9 will maybe issue that too just to correct
10 the table.

11 Q. For DeKalb, you are not
12 offering any opinions on non-teacher
13 damages, correct?

14 A. That's correct.

15 Q. And let's turn to your DeKalb
16 report, which is Exhibit 1C, if you look at
17 paragraph 17, to calculate your damages for
18 DeKalb, you relied on common core data for
19 information about teacher salaries and
20 benefits, correct?

21 A. For salaries.

22 Q. How did you calculate
23 benefits for DeKalb?

24 A. For DeKalb, I had a separate
25 document that actually provided a very good

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1 estimate for the benefit multiplier for
2 teachers.

3 Q. And is that document from
4 DeKalb for a benefits multiplier for
5 teachers something you received through
6 counsel?

7 A. Yes.

8 Q. And do you know where in the
9 DeKalb School District that estimate came
10 from?

11 A. Not off the top of my head,
12 no.

13 Q. If you look at paragraph 18
14 you say that you -- that because the common
15 core data includes all payments to teachers
16 including overtime, additional pay, summer,
17 you reduced the estimated salary for DeKalb
18 teachers by 25 percent for purposes of your
19 calculations, correct?

20 A. That's correct.

21 Q. Why was it appropriate to
22 exclude teacher overtime, additional pay,
23 and summer payments when calculating
24 damages for DeKalb?

25 A. Mr. Klein's survey asked

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1 about instructional time on a typical day.
2 So I interpret that to find, quote,
3 unquote, "a normal day." It's not
4 measuring time spent while coaching soccer
5 or some sort of extra duty thing. You
6 know, it doesn't specifically speak to
7 summer, so I chose to be conservative and
8 say I'm just using base pay, normal salary,
9 regular school year.

10 Q. What is additional pay?

11 A. That would be kind of, you
12 know, extra duty pay.

13 Q. Did you confirm that the
14 teacher salary data that you used for
15 Breathitt, Charleston, Harford, Irvington,
16 and Tucson excluded teacher overtime,
17 additional pay, and summer payments?

18 A. Yes.

19 Q. What did you do to confirm
20 that?

21 A. I asked specifically --
22 Charleston actually sent us data that was
23 gross pay and I was, like, this says gross
24 pay, is this gross pay or base pay and
25 they're, like, that's gross pay, it's

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1 everything. So then I got a new file that
2 said base pay.

3 And then for Irvington, the
4 data had it all broken down, so I was able
5 to breakdown extra duty payments, et
6 cetera, it's in the data.

7 I also confirmed at Tucson
8 that was the appropriate interpretation of
9 their data.

10 Q. What about for Harford?

11 A. I think, yeah, I think I
12 asked the same question for Harford.

13 Q. And what about for Breathitt?

14 A. Same, yes, I confirmed that
15 that was what I was provided.

16 Q. And when you confirmed for
17 Breathitt, Harford, and Tucson that the
18 salary data you received did not include
19 overtime, additional pay, and summer
20 payments, that is confirmation that you
21 received from Plaintiffs' attorneys,
22 correct?

23 MR. GRADEN: Objection to
24 form.

25 THE WITNESS: That I received

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1 via Plaintiffs' attorneys, yes.

2 BY MR. SANDOVAL-BUSHUR:

3 Q. And you do not know who from
4 any of those districts provided that
5 confirmation, correct?

6 A. No.

7 Q. If you look at Exhibit 1F,
8 which is your Tucson report, paragraph 21,
9 for purposes of your damages calculations
10 in Tucson, you include additional
11 supplemental pay to each teacher, correct?

12 A. That's correct.

13 Q. Why was it appropriate to
14 include the supplemental pay for Tucson but
15 necessary to exclude overtime, additional
16 pay, and summer pay for DeKalb?

17 A. As I understand it, the
18 supplement pay is something that everyone
19 on the contract gets. It's not like -- I
20 don't really understand why they have it
21 broken out supplementally, but my
22 understanding was that, you know, and then
23 there's the footnote 14 where it's all
24 teachers that are in this particular
25 contract receive this amount, so it's

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1 essentially just part of their salary. I
2 don't know why they label it as
3 supplemental pay.

4 Q. But the district does break
5 out the supplemental pay from the base
6 salary, correct?

7 A. They do, and I reported both.

8 Q. In performing your damages
9 estimates, you did not consider whether
10 there were any confounding factors that
11 affected the amount of time that school
12 employees spent addressing social
13 media-related issues, correct?

14 MR. GRADEN: Objection.

15 THE WITNESS: Sorry, what do
16 you mean?

17 BY MR. SANDOVAL-BUSHUR:

18 Q. In performing your damages
19 estimate, you did not consider whether
20 COVID-19 affected how much time school
21 employees spent addressing social
22 media-related issues, correct?

23 A. I took the time loss
24 estimates that I was provided as reliable.

25 Q. And you, in performing your

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1 damages estimates, did not consider whether
2 COVID-19 affected how much time school
3 employees spent addressing social
4 media-related issues, correct?

5 A. No.

6 Q. That is correct?

7 A. Oh, sorry, that is correct.

8 Q. And in performing your
9 damages estimates, you did not consider
10 whether there were any other confounding
11 factors other than COVID-19 that affected
12 the amount of time that school employees
13 spent addressing social media-related
14 issues, correct?

15 MR. GRADEN: Object to form.

16 THE WITNESS: I took the time
17 estimates that I was provided.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. Do you use any social media
20 platforms?

21 A. Again, we're into the
22 definition of what is a social media
23 platform. Of the list that you started
24 with that included all things like
25 Pinterest and Twitch and everything, so the

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1 exhaustive list that you provided, the only
2 one that I use at all is Twitter.

3 Q. Okay. How long have you used
4 Twitter for?

5 A. I have no idea.

6 Q. What do you use Twitter for?

7 A. Basically to learn what
8 journal articles have been published.

9 Q. Do you use YouTube?

10 A. Oh, I mean, I've seen videos
11 on YouTube, so I guess I also use YouTube.

12 Q. What do you use YouTube for?

13 A. Oh, I mean, when people post
14 videos and wherever it might be, it's often
15 on YouTube. Perhaps if I want to, like,
16 show my kids a music video, I'll search for
17 it on YouTube.

18 Q. Do you use Instagram?

19 A. No.

20 Q. Do you use Facebook?

21 A. No.

22 Q. Do you use SnapChat?

23 A. No.

24 Q. Do you use TikTok?

25 A. No.

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1 Q. Have you ever used any of
2 Facebook, Instagram, SnapChat, or TikTok?

3 A. I mean, I was at Harvard in
4 2004, so I have a very low user number on
5 the Facebook, but no, I have not used it in
6 a long time.

7 Q. Congratulations. Do you have
8 children?

9 A. I do.

10 Q. And how old are they?

11 A. Ten, 12, 14.

12 Q. Do any of your children use
13 social media?

14 A. My 14-year-old recently was
15 able to persuade me to allow her to have
16 SnapChat to text with her friends.

17 Q. Okay. Do any of your other
18 children have any other social media
19 accounts?

20 A. No.

21 Q. And you have shown at least
22 one of your children a YouTube video at
23 some point?

24 A. Oh, I'm sure they've seen
25 YouTube videos, but they're not like --

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1 well, in my house, they're not supposed to
2 be just going on and looking at videos on
3 YouTube.

4 Q. Do you know if any of your
5 children have ever used YouTube in
6 connection with school?

7 A. Oh, I have no idea what they
8 do at school.

9 Q. You spoke earlier about prior
10 experience you have relating to calculating
11 opportunity costs in educational settings
12 and you mentioned in an Oregon program.
13 What program is that?

14 A. It's called the ASPIRE
15 program.

16 Q. And what was the ASPIRE
17 program?

18 A. The ASPIRE program was
19 effectively a program where school
20 districts working through their counseling
21 departments would recruit volunteers to
22 come help kids fill out college
23 applications and FAFSAs.

24 Q. And what specifically did you
25 do in connection with calculating

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1 opportunity costs in connection with the
2 ASPIRE program?

3 A. You know, I mean, the program
4 was described to us in terms of it requires
5 a room in the counseling center, you've got
6 to recruit a certain number of volunteers.
7 It takes a little bit of counselor time to
8 kind of recruit the volunteers and manage
9 the program. I think that was the extent
10 of it, but I don't remember. This was a
11 long time ago.

12 Q. When did this take place?

13 A. 2008.

14 Q. Okay. And you also referred
15 to prior experience calculating opportunity
16 costs in an educational setting in
17 connection with a national program?

18 A. That's correct.

19 Q. What program was that?

20 A. It's called the Safe & Civil
21 Schools program.

22 Q. And what specifically did you
23 do in connection with calculating
24 opportunity costs relating to the Safe &
25 Civil Schools program?

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1 A. So Safe & Civil Schools,
2 that's a consultant program, right, so,
3 like, the consultant comes in, they have
4 trainers, they provide materials, so when
5 you're trying to describe what the cost of
6 this is going to be, so you're going to go
7 to a district and say, okay, this is
8 useful. You know, we put together a little
9 bit of a cost model that had the cost of
10 the program, right, because you have to pay
11 for the trainer, included the amount of
12 time that teachers have to spend in the
13 training, so that's the most directly
14 relevant thing here. And then whatever
15 other materials, there's, like, posters and
16 stuff like that. Again, that was also, I
17 think, roughly 2008, so I don't remember
18 all of the details, but I do remember
19 sitting in a meeting talking about what
20 went into -- the ingredients that went into
21 the program.

22 Q. Is there any published
23 document relating to your calculation of
24 opportunity costs with the Safe & Civil
25 Schools program?

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1 A. So I published articles in
2 there, I don't know if we did the cost
3 piece for that or if that was just for
4 discussions with the client. You know, it
5 may be in there, it may not be, I don't
6 remember.

7 Q. When did your work in
8 connection with the Safe & Civil Schools
9 program take place?

10 A. You have to look at when the
11 last publication was, but kind of roughly
12 2007 to maybe 2010, although my part was
13 mostly 2008, I think. You know,
14 publication lags are long, so there was a
15 lot of waiting to get it published, but,
16 you know, I think the actual -- it was a
17 randomized control study thing, the actual
18 period where we were in the field
19 collecting data, yeah, I want to say 2007,
20 2008.

21 Q. Were there any documents,
22 studies, et cetera published in connection
23 with the Oregon ASPIRE program?

24 A. I don't know. I mean, we
25 presented, you know, the funder is who paid

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1 for the evaluation. I don't know if it was
2 ever publicly disseminated.

3 Q. You don't have a specific
4 memory of an article or anything like that
5 relating to your work?

6 A. No, nothing that -- I mean, I
7 don't remember if we just provided a
8 presentation to the funder or if we
9 actually wrote an article or what we did
10 but I, you know, I don't remember.

11 MR. SANDOVAL-BUSHUR: Okay.
12 Let's go off the record.

13 THE VIDEOGRAPHER: Going off
14 video record 5:48 p.m.

15 - - - - -

16 (A recess was taken at this time.)

17 - - - - -

18 THE VIDEOGRAPHER: Back on
19 video record, 5:57 p.m.

20 MR. SANDOVAL-BUSHUR: Dr.
21 Ward, thank you very much for your
22 time today. YouTube is going to
23 pass the witness. I will give any
24 other Defendants on by Zoom or in
25 person to -- an opportunity to say

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1 if they want to ask any questions.

2 MR. LANDS: No questions on
3 behalf of Meta. I don't have a
4 mic, but.

5 MS. REAVES: And no questions
6 for Snap.

7 THE VIDEOGRAPHER: Counsel on
8 Zoom, anything for the record?

9 MR. GREEN: No questions on
10 behalf of the TikTok Defendants.

11 THE VIDEOGRAPHER: Thank you.
12 Please stand by. This is the
13 videographer stating total run time
14 by party for the record. Joseph
15 Sandoval-Bushur for YouTube is at
16 six hours 45 minutes. This
17 concludes today's video deposition.
18 Going off video record 5:58 p.m.

19 - - - - -

20 (Whereupon, the deposition
21 was concluded at 5:58 p.m.)

22 - - - - -

23

24

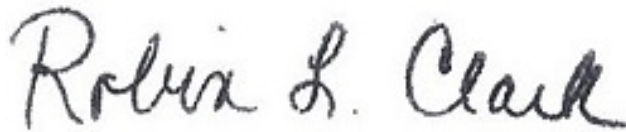
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C E R T I F I C A T I O N

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on August 15, 2025, and that this is a correct transcript of same.



Robin L. Clark

Registered Professional Reporter

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.)

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INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections.

You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I, BRYCE WARD, PhD, do hereby
certify that I have read the foregoing pages
and that the same is a correct
transcription of the answers given by me to
the questions therein propounded, except for
the corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

DATE

SIGNATURE

Subscribed and sworn to before me this
day of ,
2025.

My commission expires:

Notary Public

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[& - 2018]

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[5 - accuracy]

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